U.S. national security interests abroad. It purports, unconstitutionally, to instruct the President on the content and timing of U.S. diplomatic positions before international bodies, in derogation of the President's exclusive constitutional authority to control such foreign policy matters. It also attempts to require the President to approve the export of arms to a foreign country where a conflict is in progress, even though this may well draw the United States more deeply into that conflict. These encroachments on the President's constitutional power over, and responsibility for, the conduct of foreign affairs, are unacceptable.

Accordingly, I am disapproving S. 21 and returning it to the Senate.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 11, 1995.*

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STEVENS (for himself and Mr. FRIST):

S. 1181. A bill to provide cost savings in the medicare program through cost-effective coverage of positron emission tomography (PET); to the Committee on Finance.

By Mr. LEVIN:

S. 1182. A bill entitled the ''Burt Lake Band of Ottawa and Chippewa Indians Act of 1995''; to the Committee on Indian Affairs.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. D'AMATO, Mr. CAMPBELL, Mr. SPECTER, Mr. SANTORUM, and Mr. STEVENS):

S. 1183. A bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT:

S. 1184. A bill to provide for the designation of distressed areas within qualifying cities as regulatory relief zones and for the selective waiver of Federal regulations within such zones, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRESSLER:

S. 1185. A bill to authorize the Secretary of the Interior to enter into an agreement with the State of South Dakota providing for maintenance, operation, and administration by the State, on a trial basis during a period not to exceed 10 years, of 3 National Park System units in the State, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 1186. A bill to provide for the transfer of operation and maintenance of the Flathead Irrigation and Power Project; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 1187. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. LUGAR, and Mr. BROWN):

S. 1188. A bill to provide marketing quotas and a price support program for the 1996 through 1999 crops of quota and additional peanuts, to terminate marketing quotas for the 2000 and subsequent crops of peanuts, and to provide a price support program for the 2000 through 2002 crops of peanuts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DEWINE (for himself and Mr. GRAHAM):

S. 1189. A bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products; to the Committee on the Judiciary.

By Mr. DEWINE (for himself and Mr. GLENN):

S. 1190. A bill to establish the Ohio & Erie Canal National Heritage Corridor in the State of Ohio, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRYOR:

S. 1191. A bill to provide for the availability of certain generic human and animal drugs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY (for himself, Mr. PELL, and Mr. INOUYE):

S. 1192. A bill to promote marine aquaculture research and development and the development of an environmentally sound marine aquaculture industry; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN:

S. 1193. A bill to reduce waste and abuse in the Medicare program; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. LOTT):

S. 1194. A bill to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 1195. A bill to provide for the transfer of certain Department of the Interior land located in Grant County, New Mexico, to St. Vincent DePaul Parish in Silver City, New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG:

S. 1196. A bill to transfer certain National Forest System lands adjacent to the Townsite of Cuprum, Idaho; to the Committee on Energy and Natural Resources.

By Mr. MACK (for himself, Mr. FRIST, Mr. D'AMATO, Mr. SHELBY, Mr. ABRAHAM, Mr. SANTORUM, Mr. DEWINE, and Mr. FAIRCLOTH):

S. 1197. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the dissemination to physicians of scientific information about prescription drug therapies and devices, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COATS (for himself and Mr. GREGG):

S. 1198. A bill to amend the Federal Credit Reform Act to improve the budget accuracy of accounting for Federal costs associated with student loans, to phase-out the Federal Direct Student Loan Program, to make improvements in the Federal Family Education Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1199. A bill to amend the Internal Revenue Code of 1986 to permit tax-exempt financing of certain transportation facilities; to the Committee on Finance.

By Ms. SNOWE (for herself and Ms. MIKULSKI):

S. 1200. A bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER:

S. Res. 163. A resolution to require the Select Committee on Ethics of the Senate to hold hearings in any case involving a Senator in which the committee determines that there is substantial credible evidence which provides substantial cause to conclude that a violation within the jurisdiction of the Select Committee has occurred; to the Select Committee on Ethics.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 164. A resolution expressing the sense of the Senate that America's World War II veterans and their families are deserving of this nation's respect and appreciation on the 50th anniversary of the end of the war in the Pacific; considered and agreed to.

By Mr. PACKWOOD (for himself and Mr. MOYNIHAN):

S. Res. 165. A resolution commending the 60th anniversary of the Social Security Act; considered and agreed to.

By Mr. DOLE (for himself, Mr. LIEBERMAN, and Mr. HELMS):

S. Res. 166. A resolution expressing support for cooperation between the Governments of Croatia and Bosnia and Herzegovina; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Ms. MOSELEY-BRAUN, Mr. D'AMATO, and Mr. SARBANES):

S. Con. Res. 25. A concurrent resolution concerning the protection and continued viability of the Eastern Orthodox Ecumenical Patriarchate; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself and Mr. FRIST):

S. 1181. A bill to provide cost savings in the Medicare Program through cost-effective coverage of positron emission tomography [PET]; to the Committee on Finance.

THE MEDICARE PET COVERAGE ACT OF 1995

Mr. STEVENS. Mr. President, in our quest for a balanced budget, it is incumbent on Congress to mobilize every weapon at it disposal.

This is particularly true in Federal health care programs, which are targeted by the budget resolution for the lion's share of spending reductions.

Accordingly I am introducing today for myself and Senator FRIST the Medicare PET Coverage Act of 1995.

Regrettably this is one major cost reduction option that we are ignoring. This is the utilization of positron emission tomography [PET] to reduce the Nation's health care costs by avoiding unnecessary surgery.

Positron emission tomography [PET] is the latest advance in diagnosing diseases such as breast cancer, colon cancer, lung cancer, brain cancer, heart disease, and epilepsy.

Today, PET is emerging from its 20 year research and clinical research phase to widespread clinical use. With respect to Medicare alone, this would provide a net savings of approximately $1 billion a year.

PET technology is the only diagnostic technology that is able noninvasively to measure metabolic activity in living tissue. Identifying tumors is one example of its diagnostic value.

PET is able to diagnose the extent and severity of malignant tumors more accurately than existing clinical diagnostic techniques. Comparable improved diagnostic accuracy is also available for heart disease, epilepsy, and other neurological disorders.

PET's diagnostic accuracy translates into hundreds of thousands of fewer cases of surgery annually for cancer, heart disease, and other illnesses.

Recent peer research has identified over $5.3 billion in annual net savings to the Nation's total health care budget if PET is used clinically.

Critical to these cost savings are the hundreds of thousands of procedures that PET renders unnecessary every year.

Peer review scientific literature has identified that for lung cancer alone, over 91,000 CT scans, 10,000 surgeries, and 17,000 biopsies would be avoided each year.

For breast cancer almost 74,000 women per year would be spared the morbidity and cost associated with axillary lymph node dissection.

Similar cost and morbidity savings are available for other diseases.

These savings could start today.

PET has been performed clinically under appropriate State regulation. One million PET studies have been performed with no known negative reactions.

Patients have avoided unneeded surgery because of PET.

However, there will be no societal payback and no benefit to the average American from the use of PET under HCFA's current policy.

Despite the fact that CHAMPUS and private insurers like Blue Cross/Blue Shield currently reimburse for this safe, cost-effective procedure, Medicare and Medicaid do not.

HCFA effectively shelved any decision on reimbursement while the FDA decides whether and how to regulate PET compounds—something the States are already doing.

For over 7 years, the developers of PET have complied with HCFA and FDA procedures and requests only to have the rules changed and inquiries about progress met with minimal responses.

While there has been some recent movement on the part of the FDA, the fact remains that we have no consistent regulatory scheme that applies industrywide and to all applications.

It is time to move PET out of this needless bureaucratic quagmire.

New, proven medical procedures should not be held back by regulatory inertia.

This bill does not mandate the use of PET, but rather allow health care professionals to evaluate its usefulness. Easing the regulatory logjam has farreaching effects on reimbursement by private health plans and availability in the United States generally.

Because PET is safe and is both diagnostically effective and cost effective and because the policies of the FDA and HCFA have prohibited the delivery of PET to the general public, congressional action is necessary.

I am pleased to have the Senate's only surgeon join me in introducing this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the ''Medicare PET Coverage Act of 1995''.

SEC. 2. CLARIFICATION OF MEDICARE COVERAGE OF, AND PAYMENT FOR, ITEMS AND SERVICES ASSOCIATED WITH POSITRON EMISSION TOMOGRAPHY (PET)

(a) IN GENERAL.—Nothing in title XVIII of the Social Security Act, or any other provision of law, regulation, policy, or interpretative statement, shall be construed to prohibit under parts A and B of such title coverage of, and payment for, items and services associated with the use of positron emission tomography (PET) for a covered medical indication (as defined in subsection (b)(1) where the use meets the following conditions:

(1) The PET is used as a substitute for other diagnostic procedures or to assist a physician in assessing whether exploratory surgery, surgical treatment, radiation, transplant, or any other diagnostic or therapeutic procedure is medically necessary.

The PET is performed at a facility that is licensed under (or otherwise operating in compliance with) State law.

(b) COVERED MEDICAL INDICATION DEFINED.—

(1) IN GENERAL.—For purposes of subsection (a), the term ''covered medical indication'' means—

(A) any medical indication described in paragraph (2), or

(B) any other medical indication where the carrier involved (or the Secretary of Health and Human Services) estimates that it will be less costly to the medicare program under such title (on average) to use the protocol using PET for the indication than to use any alternative protocol which has similar diagnostic accuracy and therapeutic outcome for that indication.

(2) SPECIFIC MEDICAL INDICATIONS COVERED.—The following are the medical indications described in this paragraph:

(A) Localization of epileptogenic focus in patients with complex partial seizure disorders.

(B) Differentiation of recurrent brain tumors from radiation necrosis in patients who have previously received radiation therapy treatment.

(C) Detection and assessment of tumors associated with breast cancer, lung cancer, or colorectal cancer.

(D) Determination of cardiac perfusion and viability in patients with left-ventricular dysfunction or cardiomyopathy.

(c) DEFINITIONS.—In this section:

(1) The terms ''position emission tomography'' and ''PET'' mean a diagnostic imaging technology used, in a manner generally accepted by the medical community and recognized in the medical literature, to measure biochemical and physiologic function in the human body.

(2) The term ''protocol'' means, with respect to a specific medical indication, a set of diagnostic procedures and resulting therapeutic procedures used in diagnosing and treating the indication.

(d) EFFECTIVE DATE.—This section shall apply to PET used on or after 30 days after the date of enactment of this Act, without regard to whether or not regulations to carry out this section have been promulgated by such date.

(e) REVISION OF NATIONAL COVERAGE DETERMINATION.—The Secretary of Health and Human Services shall revise the medicare national coverage decision relating to coverage of PET to be consistent with this section. Nothing in this section shall be construed as preventing the Secretary from expanding such coverage decision beyond the coverage required under this section.

By Mr. LEVIN:

S. 1182. A bill entitled the ''Burt Lake Band of Ottawa and Chippewa Indians Act of 1995''; to the Committee on Indian Affairs.

THE BURT LAKE BAND OF OTTAWA AND CHIPPEWA INDIANS ACT OF 1995

● Mr. LEVIN. Mr. President, I introduce a bill to reaffirm the Federal recognition of the Burt Lake Band of Ottawa and Chippewa Indians. This legislation will reestablish the government-to-government relations of the United States and the Burt Lake Band. This bill is similar to legislation introduced last Congress by my friend, Senator RIEGLE. I cosponsored the legislation last year and I am honored to introduce it to the 104th Congress.

Federal recognition is vitally important for a variety of reasons. With this process completed the band can move on to the tasks of improving the economic and social welfare of its people. More importantly however, passage of this legislation will clarify that in the eyes of everyone, the Burt Lake Band is an historically independent tribe.

The band is named after Burt Lake, a small inland lake about 20 miles south of the Straits of Mackinac. The band already had deep roots in the area when a surveyor named Burt inspected the area in 1840. During the 1800's, the Burt Lake Band was a signatory to several Federal treaties, including the 1836 Treaty of Washington and the 1855 Treaty of Detroit. These treaties were enacted for the purpose of securing territory for settlement and development.

During the mid-1800's, the Federal Government turned over to the State of Michigan annuity moneys on the band's behalf in order to purchase land. This land was later lost by the band through tax sales, although trust land is nontaxable, and the band was evicted from their village. In 1911, the Federal Government brought a claim on behalf of Burt Lake against the State of Michigan. The autonomous existence of the band at this stage is clear.

Although the band has never had its Federal status legally terminated, the Bureau of Indian Affairs since the

1930's has not accorded the band that status nor treated the band as a federally recognized tribe. The Burt Lake Band, as well as the other tribes located in Michigan's lower peninsula were improperly denied the right to reorganize under the terms of the Indian Reorganization Act of 1934 even though they were deemed eligible to do so by the Indian Service at that time.

I am aware that a bipartisan group of my colleagues in the House of Representatives have sponsored a similar piece of legislation. I look forward to the consideration of this legislation by the respective committees in both the Senate and the House and its enactment into law. I also ask unanimous consent that a copy of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Burt Lake Band of Ottawa and Chippewa Indians Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Burt Lake Band of Ottawa and Chippewa Indians are descendants and political successors to the Indians that signed the treaty between the United States and the Ottawa and Chippewa nations of Indians at Washington, D.C. on March 28, 1836, and the treaty between the United States and the Ottawa and Chippewa Indians of Michigan at Detroit on July 31, 1855;

(2) the Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the Indians that signed the treaties referred to in paragraph (1), have been recognized by the Federal Government as distinct Indian tribes;

(3) the Burt Lake Band of Ottawa and Chippewa Indians consists of over 600 eligible members who continue to reside close to their ancestral homeland as recognized in the reservations of lands under the treaties referred to in paragraph (1) in the area that is currently known as Cheboygan County, Michigan;

(4) the Band continues to exist and carry out political and social activities with a viable tribal government;

(5) the Band, along with other Michigan Odawa and Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948;

(6) the Northern Michigan Ottawa Association subsequently submitted a successful land claim with the Indian Claims Commission;

(7) during the period between 1948 and 1975, the Band carried out many governmental functions through the Northern Michigan Ottawa Association, and at the same time retained control over local decisions;

(8) in 1975, the Northern Michigan Ottawa Association submitted a petition under the Act of June 18, 1934 (commonly referred to as the ''Indian Reorganization Act'') (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.), to form a government on behalf of the Band;

(9) in spite of the eligibility of the Band to form a government under the Act of June 18, 1934, the Bureau of Indian Affairs failed to act on the petition referred to in paragraph (8); and

(10) from 1836 to the date of enactment of this Act, the Federal Government, the government of the State of Michigan, and political subdivisions of the State have had continuous dealings with the recognized political leaders of the Band.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) BAND.—The term ''Band'' means the Burt Lake Band of Ottawa and Chippewa Indians.

(2) MEMBER.—The term ''member'' means any individual enrolled in the Band pursuant to section 7.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—Congress hereby reaffirms the Federal recognition of the Burt Lake Band of Ottawa and Chippewa Indians.

(b) APPLICABILITY OF FEDERAL LAWS.—Notwithstanding any other provision of law, each provision of Federal law (including any regulation) of general application to Indians or Indian nations, tribes, or bands, including the Act of June 18, 1934 (commonly referred to as the ''Indian Reorganization Act'') (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.), that is inconsistent with any specific provision of this Act shall not apply to the Band or any of its members.

(c) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—The Band and its members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians. Notwithstanding any other provision of law, those services and benefits shall be provided after the date of the enactment of this Act to the Band and its members without regard to—

(A) whether or not there is an Indian reservation for the Band; or

(B) whether or not a member resides on or near an Indian reservation.

(2) SERVICE AREAS.—

(A) IN GENERAL.—For purposes of the delivery of Federal services to the enrolled members of the Band, the area of the State of Michigan within a 70-mile radius of the boundaries of the reservation for the Burt Lake Band, as set forth in the seventh paragraph of Article I of the treaty between the United States and the Ottawa and Chippewa Indians of Michigan (done at Detroit on July 31, 1855) shall be deemed to be within or near an Indian reservation.

(B) EFFECT OF ESTABLISHMENT OF AN INDIAN RESERVATION AFTER THE DATE OF ENACTMENT OF THIS ACT.—If an Indian reservation is established for the Band after the date of enactment of this Act, subparagraph (A) shall continue to apply on and after the date of the establishment of that reservation.

(C) PROVISION OF SERVICES AND BENEFITS OUTSIDE THE SERVICE AREA.—Unless prohibited by Federal law, the services and benefits referred to in paragraph (1) may be provided to members outside the service area described in subparagraph (A).

SEC. 5. REAFFIRMATION OF RIGHTS.

(a) IN GENERAL.—To the extent consistent with the reaffirmation of the recognition of the Band under section 4(a), all rights and privileges of the Band and its members, which may have been abrogated or diminished before the date of the enactment of this Act, are hereby reaffirmed.

(b) EXISTING RIGHTS OF TRIBE.—Nothing in this Act may be construed to diminish any right or privilege of the Band or its members that existed before the date of the enactment of this Act. Except as otherwise specifically provided, nothing in this Act may be construed as altering or affecting any legal or equitable claim the Band may have to enforce any right or privilege reserved by or granted to the Band that was wrongfully denied to the Band or taken from the Band before the date of enactment of this Act.

SEC. 6. TRIBAL LANDS.

The tribal lands of the Band shall consist of all real property held by, or in trust for, the Band. The Secretary shall acquire real property for the Band. Any property acquired by the Secretary pursuant to this section shall be held in trust by the United States for the benefit of the Band and shall become part of the reservation of the Band.

SEC. 7. MEMBERSHIP.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Band shall submit to the Secretary a membership roll consisting of all individuals currently enrolled for membership in the Band at the time of the submission of the membership roll.

(b) QUALIFICATIONS.—The Band shall, in consultation with the Secretary, determine, pursuant to applicable laws (including ordinances) of the Band, the qualifications for including an individual on the membership roll.

(c) PUBLICATION OF NOTICE.—The Secretary shall publish notice of receipt of the membership roll in the Federal Register as soon as practicable after receiving the membership roll pursuant to subsection (a).

(d) MAINTENANCE OF ROLL.—The Band shall maintain the membership roll of the Band prepared pursuant to this section in such manner as to ensure that the membership roll is current.

SEC. 8. CONSTITUTION AND GOVERNING BODY.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot, elections for the purpose of adopting a new constitution for the Band. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (commonly referred to as the ''Indian Reorganization Act'') (48 Stat. 987, chapter 576; 25 U.S.C. 476).

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as a new constitution is adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Band.

(b) OFFICIALS.—

(1) ELECTIONS.—Not later than 180 days after the Band adopts a constitution and bylaws pursuant to subsection (a), the Band shall conduct elections by secret ballot for the purpose of electing officials for the Band as provided in the governing constitution of the Band. The elections shall be conducted according to the procedures described in the governing constitution and bylaws of the Band.

(2) INTERIM GOVERNMENTS.—Until such time as the Band elects new officials pursuant to paragraph (1), the governing bodies of the Band shall include each governing body of the Band in effect on the date of the enactment of this Act, or any succeeding governing body selected under the election procedures specified in the applicable interim governing documents of the Band.●

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. D'AMATO, Mr. CAMPBELL, Mr. SPECTER, and Mr. SANTORUM):

S. 1183. A bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for

coverage under the act, and for other purposes; to the Committee on Labor and Human Resources.

THE DAVIS-BACON ACT REFORM AMENDMENTS OF 1995

Mr. HATFIELD. Mr. President, for 64 years we have been working under the provisions of the Davis-Bacon Act, and that has become a highly controversial issue. Many times this Senate has attempted to repeal the Davis-Bacon Act.

A few years ago, the State of Oregon reached a compromise through a coalition of contractors, particularly in the trade unions, and for the last 6 months a similar coalition has been meeting in my office trying to come up with a reform of Davis-Bacon that would be acceptable to the two major parties, namely the building construction trade unions and the contractors' coalition.

This morning I am pleased to say that this has been completed, and I am introducing this bill, which I now send to the desk and ask for its printing, cosponsored by Senators PACKWOOD, D'AMATO, CAMPBELL, SPECTER, and SANTORUM. I invite my colleagues to join in cosponsoring it.

Mr. President, the Davis-Bacon Act was passed 64 years ago to prevent federally funded construction projects from undermining the wages and working conditions of locally employed laborers and mechanics. At the time, lawmakers saw that large Government projects elicited destructive competition between the contractors who would use the local labor pool and those who could rely on remote, but cheaper, sources of labor. Congressman Bacon, for whom the act is named, introduced the legislation when builders in his New York district were underbid for a veterans' hospital project by southern contractors who brought in cheap southern labor. Congress, intent on sustaining a construction industry already ravaged by the economic instability of the Great Depression, reasoned that the destructive practices of the southern contractors would be best resolved by requiring that federally contracted labor be paid the locally prevailing wage, thereby halting the tendency of Government contractors to drive down workers' wages in order to win lucrative projects.

In the years after the Depression, many States have enacted analogous prevailing wage standards, dubbed little Davis-Bacon laws. As Governor of Oregon, I signed that State's little Davis-Bacon Act, S.185, into law on May 26, 1959. I have supported the intelligent use of the prevailing wage standard in Government contracts ever since. Other Members of this body have made numerous attempts to repeal the Davis-Bacon Act—despite its commendable purpose of preserving the middle-class livelihoods of American construction workers, but the proven necessity for the law has thus far prevailed.

Mr. President, the Davis-Bacon Act, as it now stands, indeed deserves some of the criticism that my distinguished associates level against it. Nevertheless, its purpose of protecting the jobs of our Nation's construction workers must persuade us to reform, rather than repeal, the act. A half year ago, an idea was spawned in Oregon, a compromise if you will, among the contractors and laborers at the local level to reform their relationship. This concept of Davis-Bacon reform between workers and laborers was brought to Washington, DC, where the idea advanced to the national level of contractors and laborers. I dare say that I was astounded by the conferees, longtime adversaries attended the negotiations, intent on brokering a Davis-Bacon reform package. I am today introducing the product of those long and arduous negotiations, a reform package to revise and update the Davis-Bacon Act of 1931. Last year, a compromise among Oregon legislators, contractors, and labor unions resulted in a reform bill very similar to this one. I am confident that reform of the Davis-Bacon Act can be successfully implemented at the Federal level, because it has already been so in my home State of Oregon.

Currently, the act requires that federally funded construction contracts exceeding $2,000 in value trigger application of the prevailing wage and conditions standard. The prevailing wage, as my colleagues know, is determined county-by-county by the Labor Department, which uses the highest wage earned by at least half of the local workers in the craft. The act, as it is now implemented, also requires that workers, regardless of their training, be paid at least the prevailing wage for the craft at which they are working. Further, the companion to the Davis-Bacon Act, the Copeland Act of 1934, mandates that government contractors submit detailed wage and benefit schedules at weekly intervals.

Critics of the Davis-Bacon Act rightly argue that the law impedes rather than facilitates fair wages and balanced competition. The low threshold value of contracts and the weekly reporting requirement hinder small, local, and minority-owned contractors in their competition with larger, often out-of-State contractors. Moreover, the application of the prevailing wage standard, since it does not calculate prevailing wages by level of experience, makes apprentices and other employees who require on-the-job training unrealistically expensive.

My bill offers several reforms that would resolve many or all of the difficulties of these acts that advocates of repeal find objectionable. There are three principal amendments to the existing statutes that would permit the Department of Labor to pursue the goals of the Davis-Bacon Act without the problems so often cited by critics. First, the threshold at which the act becomes applicable to Federal projects would be raised from $2,000 to $100,000. Second, the frequency with which contractors are required to file wage and benefit schedules would be changed from weekly to monthly. Third, trainees and apprentices would be excluded from the prevailing wage standard if they are enrolled in a training program that is registered with the Department of Labor.

Mr. President, critics who seek to repeal entirely rather than improve the Davis-Bacon Act contend that the act's problems are beyond repair and that this body must allow competition to devastate the middle class livelihoods of America's construction workers. They argue that the Davis-Bacon Act is obsolete, tremendously costly, and impractical, regardless of whatever changes might be made to it. I disagree, and feel that the costs of the Davis-Bacon Act are grossly overestimated, whereas the benefits that we would jeopardize with its repeal have been dangerously neglected.

The advocates of repealing the Davis-Bacon Act have not adequately demonstrated that enforcing the prevailing wage standard in federally funded contracts is, all things considered, untenably expensive. I feel that the act is relatively cost-effective now and will be all the more so with the changes I propose today. Critics of the Davis-Bacon Act frequently cite a CBO estimate of the savings that the Federal Government would enjoy if the act were repealed, but this estimate fails to consider the hidden costs of repeal. Although the Government might save money directly through lower construction wages, lost wages are likely to push an even greater number of formerly productive construction workers onto the rosters of the unemployed seeking Government assistance. Tax revenues, too, would decline, since the average construction worker would lose nearly $1,500 in annual income after the repeal of the Davis-Bacon Act.

Moreover, the evidence that the Government would save a substantial sum of money from cutting the wages paid to workers on Federal projects is dubious. Contractors' experiences repeatedly show that higher wages are positively correlated with higher productivity. Lower wages do not necessarily mean lower labor costs. Indeed, figures from a 1995 University of Utah study indicate that it costs less to build a mile of road in States with higher wages than in States with lower wages; the study revealed that, in States that have analogs to the Davis-Bacon Act, it has cost an average of almost $250,000 less per mile of road than in States that do not observe prevailing wage standards.

It is apparent, Mr. President, that the CBO study upon which critics of the Davis-Bacon Act rely overestimates the cost and impracticality of enforcing and complying with the act. The figures that CBO study uses for its estimate are 15 years old; they do not reflect the expansion of office technology that has occurred in the last decade. Advances in office technology have facilitated the periodic filing of

wage and benefit schedules by Government contractors as well as the processing of those schedules by the Department of Labor. Furthermore, the proportion of all Federal contracts that would have to comply with the act would drop to less than half, if the higher threshold I propose were promulgated.

It is altogether unclear, therefore, whether the Federal Government can reasonably expect dramatic savings from an outright repeal of the Davis-Bacon Act. Even if the substantial savings that the CBO has predicted were possible with the repeal of the act, Mr. President, I would nevertheless urge my distinguished colleagues to consider the nonmonetary yet indispensable benefits of the act. A pressing concern of mine is the safety of America's builders. The 1995 University of Utah study to which I earlier referred indicates that the repeal of Davis-Bacon might lead to less training for construction workers and to more accidents and fatalities on work sites. That study examined nine States that repealed their own little Davis-Bacon laws. It reported that training declined in those States by 40 percent while occupational accidents rose by 15 percent. Better paid workers have fewer accidents and fewer fatalities—without the Davis-Bacon Act, better pay for workers will be the first cost that Government contractors cut. Is this body prepared to jeopardize the safety of American workers in pursuit of unproven savings? I myself am not.

Another benefit of the prevailing wage standard is its contribution to the maintenance of a pool of well trained and motivated construction workers. This has become increasingly difficult with plummeting wages and unstable demand for labor in the construction industry. There are few incentives for young people to undertake the long-term training necessary to be a competent craftsman or mechanic if they can look forward to earning little more than the minimum wage and no benefits. Permitting the Federal Government, which provides between 10 and 20 percent of the construction industry's revenues, to invite competition that would inevitably depress wages further than they already have been is to imperil this Nation's ability to maintain and expand its infrastructure when the need arises.

Mr. President, I cannot abide the repeal of the Davis-Bacon Act, although I do believe that it needs to be updated and revised. I am not convinced that repealing the act would permit the dramatic savings that have been predicted by critics of the act, primarily because the fiscal benefits of the act have been consistently underestimated or ignored. I understand, however, that the act as it is currently implemented is problematic and sometimes counterproductive in terms of its own purpose. This is why I have long supported, and propose today, fundamental reform of this absolutely vital law. The Davis-Bacon Act, with the correct revisions, can once again serve its purpose of protecting the livelihoods of America's builders and mechanics, preserving the sanctity of community standards, and ensuring that local contractors, young apprentices, and skilled workers have a chance to contribute to the growth and livelihood of both this Nation and their own families. Let us not confront this law with shortsighted and uninspired aspirations of abandoning it, but with the goal of rewriting it so that it can serve its original and laudable purpose.

I ask unanimous consent that a list of members of the contractors-labor coalition be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD; as follows:

MEMBERS OF THE CONTRACTORS-LABOR COALITION

Irv Fletcher, Oregon AFL-CIO; Bob Shiprack, Building and Trades Council; William G. Bernard, Asbestos Workers; Charles W. Jones, Boilermakers; John T. Joyce, Bricklayers; Sigurd Licassen, Carpenters; Dominic Martell, Cement Masons (plaster); J.J. Barry, Electrical Workers; John N. Russell, Elevator Constructors; Jake West, Iron Workers; Arthur Coia, Laborers; Frank Hanley, Operating Engineers; A.L. Monroe, Painters, Earl J. Kruse, Roofers; Arthur Moore, Sheet Metal Workers; Ron Carey, Teamsters; Jarvin J. Boede, United Association.

Bill Supak, Kim Mingo, Sandy Barnes, Associated General Contractors Oregon-Columbia Chapter; Terry G. Bumpers, National Alliance for Fair Contracting; Stan Kolbe, Sheet Metal & Air Conditioning Contractors National Association; Robert White, National Electrical Contractors Association; Patricia Fink, Mechanical Contractors Association of America.

By Mr. ASHCROFT:

S. 1184. A bill to provide for the designation of distressed areas within qualifying cities as regulatory relief zones and for the selective waiver of Federal regulations within such zones, and for other purposes; to the Committee on Governmental Affairs.

THE URBAN REGULATORY RELIEF ZONE ACT OF 1995

Mr. ASHCROFT. Mr. President, it is a pleasure to rise today and discuss an opportunity to provide relief from many of the threats to the safety, security, and well-being of those individuals who populate our urban centers. Our cities today, especially our inner cities, have become areas of hopelessness and decay and despair.

Consider these facts: America's urban areas suffer a murder every 22 minutes, a robbery every 49 seconds, and an aggravated assault every 30 seconds. In a survey of first and second graders in Washington, DC, 31 percent reported having witnessed a shooting, 39 percent said they had seen dead bodies. In addition, 40 percent of low-income parents worried a lot about their children being shot, compared to 10 percent of all parents who worry about their children being shot; 1 out of every 24 black males in this Nation, 1 out of every 24 black males in America, will have his life ended by a homicide. A report in The New England Journal of Medicine stated that a young black man living in Harlem is less likely to live until the age of 40 than a young man in Bangladesh, perhaps the poorest country on Earth. These are tragedies too great to comprehend.

The roots of these pathologies are varied. They are partly cultural, partly economic, and partly social. Many people are born, live, and die without ever knowing what it is like to have a job, to feed a family, and to fulfill their dreams.

In a number of the high schools in central cities, for example, the dropout rate rises as high as 80 percent. In 1990, 81 percent of young high school dropouts living in distressed urban areas were unemployed. In that same year, more than 40 percent of all adult men in the distressed inner cities of America did not work, while a significant number worked only sporadically or part time. Today, half of all residents of distressed neighborhoods live below the federally defined poverty threshold—in 1993, $14,763 for a family of four.

Why do we have these problems in our inner cities? Well, as I have indicated, there are a variety of reasons. But I submit that one of the significant reasons for all of these facts is what I would call a ''regulatory redlining'' of our urban centers—a series of pervasive regulations promulgated by a variety of agencies that have literally driven jobs from the center of America's urban environments. As a matter of fact, the older the site is, the longer there has been industry, the longer there has been manufacturing, and the longer there has been industrial activity, the less likely the site is to qualify with and escape from the kind of onerous regulations which drive away jobs in these settings.

As well meaning as many regulations may have been, the reality is that they have destroyed opportunity in our inner cities.

There is a great debate about regulation and the regulatory burden in America. But the people who live in our inner cities bear not only their portion of the $600 billion in regulatory costs that are built into our products, they also experience and sustain a cost of regulation which is substantially higher in many circumstances. It is a cost of lost opportunity. It is a cost of poor health. It is a cost of the lack of personal security and safety. It is truly a major challenge.

I have spoken on the Senate floor of situations in both Kansas City and St. Louis MO where Federal regulations designed to protect health and safety actually hurt Missouri's cities by essentially prohibiting new jobs while simultaneously forcing existing jobs from the city. Every large city has countless numbers of similar stories.

Regulations, in particular environmental regulations, have attached so much liability to older industrial sites

that, in many instances, these properties now have a negative market value—you'd have to pay someone else to take them. As a result, industries are headed for suburban and rural lands unspoiled by older industrial development. Tired of wading through open-ended regulations and liability laws that hold anyone even remotely responsible for cleanup costs, industries are moving to greener pastures.

Perhaps Kathy Milberg, executive director of the Southwest Detroit Environmental Vision Project, says it best:

You've got industries building all these nice clean plants in our suburbs * * * while environmentalists are telling us we can't build—in the cities—because we don't have a pristine environment. We've got to stabilize this neighborhood economically as well as environmentally. * * * They talk about environmental justice, but where's the justice when the suburbs are getting all the new factories and new jobs while we're stuck with a bunch of fences covered with ''Do not trespass'' signs?

The rules and regulations that she laments make sense in certain areas, but frankly, the statistics tell us that the inhabitants of our urban centers are at far greater risk of the kind of lead poisoning that comes from a .38 than they are from the environmental concerns that drive so many jobs from the inner cities.

We have to find a way to bring jobs back into our cities. The risks associated with unemployment are enormous—far greater than the risks associated with a door that may be 36 instead of 38 inches wide, or that do not comply with a particular statute. The risk of being shot in a drive-by shooting is much more pressing and demanding and challenging than the risk of being contaminated by impure dirt beneath a parking lot.

Under the guise of noise abatement, we have merely exchanged the sounds of productivity for the sounds of silent factories. The crack of cocaine has been the only sound of productivity in our cities' centers. The wail of a family in the wake of a siren, the echoing clang of a cell door—those are the principal sounds of our inner cities. We need a common sense approach to risk in our inner cities.

We literally have a substantial group of people in this country at the core of our urban centers and in our cities, whose opportunities have been diminished, whose safety has been impaired, whose health has been undermined, whose security has been threatened, and whose longevity has been shortened because of well-meaning but misapplied regulations.

Our challenge is to find a way to make our urban centers places where people can thrive again.

That is why I am introducing The Urban Regulatory Relief Zone Act of 1995. The goal of the bill is this: to give the residents, government, and businesses of inner city areas the opportunity to restore their towns by reducing the often silly and senseless regulations that currently burden them.

This bill will provide an opportunity for the mayor of a city, any city over 200,000, to appoint an Economic Development Commission which could assess rules and regulations which they believe impair the health, safety and well-being of their residents by keeping jobs out of the area; and to weigh whether or not waiving those regulations could give rise to an influx of opportunity which would provide an improvement in the health, an improvement in the security, an improvement in the education, and an improvement in the longevity of the individuals in that zone. These Economic Development Commissions will give all members of the community the opportunity to participate and work closely with one another to bring about real change and progress in the community.

These Economic Development Commissions could then apply for modification or waiver of those rules. The Office of Management and Budget will process these requests and forward them to the appropriate Federal agencies. Ultimately we give the agencies the deference they deserve, and allow them to deny a waiver or modification request if the agency decides that the granting of the waiver would create a significant threat to human health and safety. I believe, however that the Economic Development Commissions will be able to readily identify those rules and regulations which prevent growth while achieving little or no benefit to the community.

We have to give cities a chance to say to individuals:

You can come in here, you don't have to be responsible for all the past sins of industry here; you don't have to make sure the dirt under your parking lot is so clean that it could be eaten by an individual for his or her entire 70 years of existence. We want to have jobs here because we know that an employed person is safer than an unemployed person; that an employed person is healthier than an unemployed person; that where there is economic vitality and industry, there is a far greater chance that the young people will persist in their education, avoiding the dropout situation; and will upgrade what happens in our very inner cities.

The isolation of the distressed urban areas I have referred to conflicts with our national ideals. Equality of opportunity is a fundamental principle of American society and a right of all Americans. Extreme differences in the range of life chances between persons of one segment of American society and another, one racial or ethnic group and another, or one part of an urban area and another conflict harshly with this ethical standard. I believe the persistence of distressed urban areas is dangerous to America's future.

Mr. President, I thank you for the opportunity. It is my sincere belief that the Urban Regulatory Relief Zone Act which I introduce today can restore a sense of hope and real benefits in terms of economic opportunity and improved health and safety to our inner cities. I hope that we will have the good judgment to share with the people of the United States the opportunity to make sound decisions about improving the standing of those who are at peril in our inner cities, the core of our largest urban centers. I hope that we will give them the opportunity to get relief when that relief will increase their likelihood for safety, for health, for security, for productivity and for longevity. I hope that we will give them the opportunity to get relief when that relief will increase their likelihood for safety, for health, for security, for productivity, and for longevity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Urban Regulatory Relief Zone Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial or industrial purposes, thus rendering older sites in urban areas most unlikely to be chosen for new development and forcing new development away from the most areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended consequences in urban areas where such regulations—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed to improve the health and welfare of residents over a long period of time; and

(F) contribute to social deterioration to such a degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) enable qualifying cities to provide for the general well-being, health, safety and security for their residents living in distressed areas by empowering such cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas designated as urban regulatory relief zones by an economic development commission—

(A) upon application through the Office of Management and Budget by an economic development commission established by a qualifying city under section 5; and

(B) upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 4. ELIGIBILITY FOR WAIVERS.

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an economic development commission to carry out the purposes of section 5 if the city population is greater than 200,000 according to—

(1) the United States Census Bureau's 1992 estimate for city populations; or

(2) beginning 6 months after the date of the enactment of this Act, the United States Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as a distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line;

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year;

(3) 36 percent or more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 5. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The mayor or chief executive officer of a qualifying city under section 4 may appoint an economic development commission for the purpose of—

(1) designating urban regulatory relief zones in a city composed of—

(A) a distressed area;

(B) a combination of distressed areas; or

(C) one or more distressed areas with adjacent industrial or commercial areas; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such urban regulatory relief zones.

(b) COMPOSITION.—To the greatest extent practicable, an economic development commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one economic development commission shall be established or designated within a qualifying city.

SEC. 6. LOCAL PARTICIPATION.

(a) PUBLIC HEARINGS.—Before designating an area as an urban regulatory relief zone, an economic development commission established under section 5 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The economic development commission shall establish a process by which individuals may submit requests to the commission to include specific Federal regulations in the commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISIONS.—After holding a hearing under subsection (a) and before submitting any waiver applications to the Office of Management and Budget under section 7, the economic development commission shall make publicly available—

(1) a list of all areas within the city to be designated as urban regulatory relief zones, if any;

(2) a list of all regulations for which the economic development commission will request a waiver from a Federal agency; and

(3) the basis for the city's findings that the waiver of a regulation would improve the health and safety and economic well-being of the city's residents and the data supporting such a determination.

SEC. 7. WAIVER OF FEDERAL REGULATIONS.

(a) SELECTION OF REGULATIONS.—An economic development commission may select for waiver, within an urban regulatory relief zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an urban regulatory relief zone;

(B) discourages economic development within the zone;

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An economic development commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an urban regulatory relief zone by the economic development commission;

(B) identify all regulations for which the economic development commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the urban regulatory relief zone and the data supporting such determination.

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Office of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this Act, using the most recent census data available at the time each application is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting economic development commission of the date on which the request was submitted to such agency; or

(B) notify the requesting economic development commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An economic development commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waive a regulation in whole or in part; and

(B) provide written notice to the requesting economic development commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting economic development commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for business concerns, within the urban regulatory relief zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting economic development commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) LIMITATION.—No provision of this Act shall be construed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OF SUBSEQUENT AMENDMENT OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 8. DEFINITIONS.

For purposes of this Act, the term—

(1) ''industrial or commercial area'' means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area under section 5(b);

(2) ''poverty line'' has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2));

(3) ''qualifying city'' means a city which is eligible to establish an economic development commission under section 4;

(4) ''regulation''—

(A) means—

(i) any rule as defined under section 551(4) of title 5, United States Code; or

(ii) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title; and

(B) shall not include—

(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

(ii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)); or

(iii) a rule promulgated under the Communications Act of 1934 (47 U.S.C. 101 et seq.); and

(5) ''urban regulatory relief zone'' means an area designated under section 5.

By Mr. PRESSLER:

S. 1185. A bill to authorize the Secretary of the Interior to enter into an agreement with the State of South Dakota providing for maintenance, operation, and administration by the State, on a trial basis during a period not to exceed 10 years, of three National Park System units in the State, and for other purposes; to the Committee on Energy and Natural Resources.

THE SOUTH DAKOTA NATIONAL PARKS PRESERVATION ACT OF 1995

Mr. PRESSLER. Mr. President, I rise today to introduce legislation to allow South Dakota's national parks to be managed by the State of South Dakota.

Natural resources always have played a significant role in the heritage of my State. South Dakota is the proud home of three of our national treasures: Wind Cave National Park, Jewel Cave National Monument, and Mount Rushmore National Memorial, as well as a number of State parks, wildlife preserves, and recreation areas. It is not surprising that tourism is the second largest industry in the State. People travel thousands of miles to view South Dakota's natural wonders.

Located just south of Custer State Park, Wind Cave National Park is one of the nation's oldest national parks. The park provides protection to hundreds of prairie wildlife, including bison, antelope, coyotes, elk, and prairie dogs. The cave itself is 70 miles of winding underground passageways. The natural formations of boxwork, flowstone, popcorn and frostwork combine with helictites and stalactites to amaze and educate visitors from around the world.

Northwest of Wind Cave, is Jewel Cave National Monument—the fourth longest cave in the world. Ninety miles of underground passageways have been mapped to date, but many more miles are left to be discovered. The cave takes its name from glittering jewel-like calcite crystals which line the walls of many of the cave's rooms and tunnels.

Finally, there is Mount Rushmore, set in the heart of the Black Hills National Forest. The Mount Rushmore National Memorial attracts more than 2 million visitors each year. It is truly America's Shrine of Democracy. The monument was designed in 1927 by Gutzon Borglum, the son of Danish immigrants. The Memorial is a shrine of American Presidential heroes: George Washington, father of the Nation; Thomas Jefferson, author of the Declaration of Independence; Theodore Roosevelt, conservationist and trustbuster; and Abraham Lincoln, the great emancipator and preserver of the Union. More than 65 years later, Mount Rushmore is still one of the most powerful symbols of America.

This year there has been a great deal of discussion about the ever diminishing funds for the National Park Service. In light of possible budget cuts, some even erroneously questioned whether the parks would be able to stay open.

Mr. President, I agree that like most Federal Government programs and agencies, the Park Service is due for some belt tightening. However, fiscal responsibility should not place at risk the effective management of our national parks. Our Nation has some of the most spectacular scenery in the world and we must carefully preserve this natural legacy that has been placed in our care.

The challenge that we face should not be the threat of a park closing. That is not an option. Such scare talk is no substitute for what is truly needed during these tough times—imagination. We need to consider new ways to do more with less. To paraphrase an adage used at dinner tables across America, we must learn to stretch our Park Service dollars.

That is exactly what I have done. In the past few weeks, I have worked closely with Bill Janklow, the distinguished Governor of South Dakota, to formulate a plan that would direct the National Park Service to enter into an agreement with the State of South Dakota to manage three of our four National Parks—Mount Rushmore National Memorial, Wind Cave National Park and Jewel Cave National Monument. However, Mr. President, I would like to emphasize that these parks would remain Federal property. Management of the parks would change hands, but ownership and title would remain with the Federal Government.

While the National Park System has managed these areas well, Governor Janklow has put forward an initiative that would allow the State to provide the same high quality management at less cost; and I commend his innovative cost-cutting ideas. I ask unanimous consent that a letter of support from Governor Janklow be printed in the RECORD following my statement. The legislation I am introducing today would give the State the opportunity to prove its ability to manage its national parks.

Specifically, this legislation would freeze funds for South Dakota's national parks at 1994 levels, and would transfer those moneys to the State. By combining Federal fiscal resources with the State's tested management of its own parks system, the State has the opportunity to demonstrate that it can maintain our parks responsibly and efficiently.

My legislation is a simple ten-year pilot project. After that time, the success of the management transfer would be evaluated for possible renewal.

This bill does not ask the State of South Dakota to perform a task it is unfamiliar with. The State administers its own vast park system, the largest unit being Custer State Park which is directly adjacent to Wind Cave National Park. In addition, Custer State Park headquarters are less than 20 miles from Mount Rushmore National Memorial and 28 miles from Jewel Cave National Monument. This close proximity would allow the State to consolidate resources, and generally streamline management responsibilities. The result? Overall efficient management of both State and National parks.

South Dakotans have a great history of stewardship of the land. South Dakota's department of game, fish and parks is representative of that deep commitment to our State's natural resources. South Dakota has more State parks than any other State. Thanks in great part to the State's efforts, tourism in South Dakota is now the second-largest industry. The success of this industry can be attributed to the diversity of natural resources and recreational activities which South Dakota provides in conjunction with the effective and successful management of those resources by the department of game fish and parks.

Mr. President, South Dakota is proof that Washington bureaucrats do not have a corner on the market of expertise to manage Federal lands. Washington could learn a thing or two from South Dakotans. Indeed, as in areas like welfare reform and law enforcement, we are seeing that Washington bureaucrats are too far removed to understand local problems and needs. The same applies to the National Park Service. Given South Dakota's tradition of effective stewardship, who could better manage South Dakota's park resources than the State itself?

Mr. President, Americans believe the time has come for the Federal Government to clean up its fiscal mess. Meeting this vital goal will require cost-effective innovation, not just from Washington, but from across the Nation. The State of South Dakota is ready to step up to the plate. My legislation would enable the National Park Service to control its budget by giving South Dakota creative authority to institute its cost-effective management practices on three national parks.

I have confidence this demonstration will prove to be a great success. It is my hope this project will set a precedent for future State management of our National Parks. I urge my colleagues to study my legislation, and I look forward to working with the members of the Senate Energy and Natural Resources Committee to give South Dakota the opportunity to prove its ability to effectively and efficiently manage its National Parks.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''South Dakota National Parks Preservation Act''.

SEC. 2. MAINTENANCE, OPERATION, AND ADMINISTRATION OF NATIONAL PARK SYSTEM UNITS IN THE STATE OF SOUTH DAKOTA.

(a) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term ''Department'' means the Department of Game, Fish and Parks of the State of South Dakota.

(2) NATIONAL PARK SYSTEM UNITS.—The term ''National Park System units'' means Mount Rushmore National Memorial, Wind Cave National Park, and Jewel Cave National Monument, in the State of South Dakota.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(b) AGREEMENT.—The Secretary may enter into an appropriate form of agreement with the Secretary of the Department of Game, Fish and Parks of the State of South Dakota providing for the maintenance, operation, and administration of the National Park System units by the Department for a period not to exceed 10 years.

(c) PERFORMANCE.—An agreement under subsection (b) shall—

(1) establish performance standards to ensure that the National Park System units receive appropriate maintenance and provide appropriate levels of service to the public; and

(2) provide that if the Department fails to meet those standards, as determined by the Secretary, the agreement shall be terminated under such terms and conditions as the agreement may provide.

(d) REPORT TO CONGRESS.—An agreement under subsection (b) shall provide that not later than 2 years after the date of the agreement, and annually thereafter, the Department shall report to Congress on matters relevant to the carrying out of the agreement.

(e) FEE.—An agreement under subsection (b) may provide that the Secretary will pay the Department an annual fee in an amount not to exceed the amount expended by the Secretary during fiscal year 1994 for maintenance, operation, and administration of the National Park System units.

(f) USER FEES.—An agreement under subsection (b) may provide that if, after a number of years stated in the agreement, it appears that the annual cost to the Department of maintaining and operating the National Park System units has exceeded and will continue to exceed the amount of the annual payment under subsection (e), the Department will be permitted, notwithstanding any other law, to charge the public entrance fees and other fees for use of the National Park System units in reasonable amounts agreed to by the Secretary.

STATE OF SOUTH DAKOTA,
Pierre, SD, August 10, 1995.

Hon. LARRY PRESSLER,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR PRESSLER: Thank you for introducing legislation authorizing the Secretary of the Interior to enter into an agreement with the State of South Dakota for the management of Mount Rushmore National Memorial, Wind Cave National Park, Jewel Cave National Monument and Badlands National Park. I wholeheartedly support this effort. If such an agreement can be developed, both the state and the nation can benefit from reduced costs of operation.

The proposal the State of South Dakota submitted to Secretary of the Interior Bruce Babbit on June 29, 1995, originates from the sincere belief that our own Department of Game, Fish and Parks has the experience, the expertise, and the dedication to manage what Secretary Babbitt has called ''America's secular cathedrals.'' South Dakota is committed to meeting the high level of visitor expectation associated with our national parks, while providing those services to the taxpayer in the most efficient and effective manner possible. The State of South Dakota is confident that it can meet these standards. For federal bureaucrats to suggest otherwise demonstrates the lunacy and arrogance of Washington.

As Abraham Lincoln once said, the time has come to think anew and act anew. Regardless of what happens in Congress in the weeks and months ahead, it is reasonable to anticipate that the federal government's budget will probably be leaner in the years ahead. We welcome the National Park Service to join our state in a new partnership that will answer our citizens' clarion call for a smaller federal government—a government that works to empower the states to assume duties traditionally run inside the Beltway.

Once again, thank you for your efforts in introducing this legislation.

Sincerely,

WILLIAM J. JANKLOW.

By Mr. BURNS:

S. 1186. A bill to provide for the transfer of operation and maintenance of the Flathead Irrigation and Power Project; and for other purposes; to the Committee on Energy and Natural Resources.

FLATHEAD IRRIGATION LEGISLATION

• Mr. BURNS. Mr. President, this bill transfers the authority to operate and maintain the Flathead Irrigation and Power Project to the irrigation districts which it serves. Initially constructed and operated by the predecessor of the Bureau of Reclamation, this project unlike almost all others in the West has remained the responsibility of the Federal Government for almost 70 years.

It is located on the Flathead Indian Reservation in northwest Montana. In 1904, pursuant to General Allotment Act policies, Congress opened the reservation to nonmember entry and settlement under the general homestead, mining, and townsite laws of the United States. Congress authorized the construction of the project to provide water to these settlers and tribal member irrigators in 1908 and included a provision for the transfer of project operation and maintenance to the landowners served by the project. In 1926, Congress required and authorized the formation of irrigation districts under the laws of Montana to represent these landowners, both tribal members and nonmembers, in dealing with the Federal Government.

As a result of Congress' actions opening the reservation to nonmember, according to the 1993 census about 21,259 people live within the reservation exterior boundaries and only 3,000 are tribal members. Similarly, of the 127,000 acres delivered water by the project, 113,000 are within the irrigation districts, which, under State law, have taxing, lien and foreclosure authority, power to operate irrigation systems, and to hire employees and agents. The land subject to District authority and responsibility is owned by tribal members, about 10 percent, and nonmembers. These farmers' democratically elected governments, the districts, can run the project more efficiently than the BIA.

Early on, the Federal Government wanted to transfer responsibility for the project to the districts but they were not ready for the responsibility. In the 1960's, the districts and the Government negotiated a contract to transfer the operation and management responsibility to the districts for the project, both the irrigation division, including its reservoirs, dams and hundreds of miles of canals, and the power division, which is a power distribution network supplying power to reservation residents.

At the conclusion of negotiations, however, when they thought the deal was done, the Federal Government backed out. For almost 30 years since that time the districts, which represents about 2,000 family farms, have been attempting to get solid answers from the Department of the Interior about when it will transfer the operation and management of the project to them. After decades of stonewalling, they deserve action by Congress to resolve this matter.

This bill does that.

There will be opposition. The Department, particularly the Bureau of Indian Affairs, will oppose the diminishment of its authority. The local tribes will call it an outrage. Let's look at the facts.

Ownership of all land and property remains in the United States.

Transfer of operational authority will not affect water rights or the environment, because the districts will operate the project under the same legal constraints under which it now operates.

Transfer of the O&M would remove Federal inefficiencies and enhance the profitability or irrigation without affecting fish and wildlife adversely. Simply because of economies from different personnel policies, the districts can operate the project at a significant savings without changing operating policies and practices at all.

Almost all other similar Federal projects in the West which can, if operated efficiently, sustain irrigation, have been transferred to irrigation districts or similar water user associations.

Local irrigators are among the most efficient in the West at making the paltry amount of water they receive, about 0.5 to 0.7 per acre-foot for $18.65 per acre, perform well for them.

The irrigation districts have a proven record of trying to positively address environmental issues and water efficiency issues.

The time has come to put the people directly served by and dependent on this project in charge of it. Federal inefficiencies are more than local farmers can continue to shoulder. A Federal study of the project 10 years ago found that of the more than $2 million paid

each year by irrigators to the BIA to operate the project, 74 percent of that goes to personnel costs. In comparison, that study found other irrigation projects in the region typically have personnel cost of 60 percent. This means irrigators pay about $280,000 more each year on personnel costs than they should have to. This is reflected in operation and maintenance rates, which skyrocketed from $7.38 per acre in 1981 to their current level of $18.45. At the same time water deliveries dropped, the Project has further deteriorated, and farm product prices have not increased to keep up with O&M rates.

In its own study 10 years ago the Department of the Interior recognized that economically the only way for farmers to survive is for the operation and management to be transferred to the districts. It found that even at 1985 O&M rates, $10 per acre, irrigators ''cannot afford to pay the assessment rate.'' It concluded, ''the transfer of the operation and maintenance of the irrigation system to water users may, in the end, be the only long term, viable solution from an economic standpoint.''

But the Department has steadfastly refused. That is why this bill is necessary and just.●

By Mr. MURKOWSKI:

S. 1187. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

THE TONGASS NATIONAL FOREST ACT OF 1995

● Mr. MURKOWSKI. Mr. President, I introduce legislation which would convey certain property located in the Tongass National Forest to Mr. Daniel J. Gross, Sr., and his brother, Mr. Douglas K. Gross. I introduced similar legislation in the 102d and 103d Congresses.

Mr. President, in the early 1930's Mr. William Lee Gross and his wife Bessie Knickson Gross homesteaded 160.8 acres of land at Green Point on the Stikine River. The Gross family lived at Green Point for several years and have claimed titled to the land since the 1930's. Unfortunately, the legal documents that conveyed title of the land to the Gross family were destroyed when their home burned to the ground in Wrangell during the winter of 1935–36.

Mr. President, the Gross family should not be punished because the title to their land was destroyed in a fire. No one living in the Stikine area doubts the claims of the Gross brothers. Dan and Doug Gross are old timers from Alaska who have been seeking title to their land for decades. Despite overwhelming support from the local community, and substantial evidence submitted by the Gross family, the Forest Service continues to refuse to convey title of the land at Green Point to Doug and Dan.

For this reason, I am introducing legislation to resolve this issue. Doug and Dan Gross are ordinary people who have come up against a bureaucracy that threatens to dismiss over 50 years of their family history. I cannot allow this to happen.●

By Mr. SANTORIUM (for himself, Mr. LUGAR and MR. BROWN):

S. 1188. A bill to provide marketing quotas and a price support program for the 1996 through 1999 crops of quota and additional peanuts, to terminate marketing quotas for the 2000 through 2002 crops of peanuts, and for other purposes; to the Committee on Agriculture, Nutrition and, Forestry.

PRICE SUPPORT PROGRAM LEGISLATION

Mr. SANTORUM.

Mr. President, I rise today to introduce a bill which I hope will be a compromise on an issue that we are going to be bringing up when the farm bill hits the floor, and that is the peanut program. There are bills introduced in the Senate to eliminate the peanut program immediately. I do not believe that, frankly, is going to be fair to the farmer.

What we are trying to do is put in a program that is a 5-year phaseout that gives people plenty of notice and ability for people to be able to adjust to the gradual phaseout, gradually reduce the support price, which I will get into in a moment. Our bill provides a glidepath for peanut farmers in this country to get back to a market-based system which I think is needed. In fact, we are going to talk this morning about how horribly bureaucratic and inefficient the current peanut program is.

For those who are not familiar with the peanut program, let me run through it on this chart. The top half of this chart is how the peanut program works. You would think that you grow peanuts and you just give them to somebody and they sell them.

In fact, the next chart I have—I will come back to this one—is for another crop that is grown underground, a potato. There is no Government program for potatoes. You just grow them, sell them to someone who will get them to the store or make potato chips, but this is it. This is the entire marketing of a potato.

However, in peanuts, we have a little different story because of this program created during the Great Depression. Congress created this very complex system of contracting for peanuts and having the Government, frankly, be there to support peanut growers with a fixed price for their peanuts irrespective of what the market price is. They will be paid a fixed price. Today, the price of peanuts grown in the United States by quota peanut holders is $678 per ton. If you are not a quota peanut grower—those are called additional peanuts, you can only sell them for export on the world market. You cannot sell them in the United States. You are not allowed to. You can grow them here, but you cannot sell them here. You have to sell them overseas at the world market price which is roughly half of what the quota price is.

If you want to sell your peanuts, this is how you have to go through this process. You grow peanuts. In many cases, the quota peanuts are purchased by the Government. It is called a nonrecourse loan. What does that mean? That means that the peanuts are the collateral for the loan, and if they are not worth the $678 a ton, the Government loses money, not the peanut grower. So you sell them to the Government. The Government pays you for those, and what the Government does with them, if they cannot sell them for $678, which in many cases they cannot, the Government loses money, not the peanut farmer. Only quota holders can do this.

If you grow peanuts and you do not have a quota, then you have to contract with somebody, whether it is a foreign interest or whatever the case may be, and you get the world price, but if you cannot contract before the peanuts are harvested, you sell them to the Government for noncontract additionals.

Now, remember, quota peanuts get $678 a ton. Noncontract additionals get $123 a ton. They are the same peanuts. They are grown right next to each other, same quality, but they get a fifth of the price because they do not have this quota.

Now, you may say, what is this quota? It is a poundage that has been passed down since 1941—that was distributed back in 1941—to generation after generation of people who have the rights to grow a certain amount of peanuts in a particular State in a particular county of that State. If you have a quota to grow peanuts in Carroll County, GA, you cannot take that quota and sell it to somebody to grow peanuts in Cobb County, GA. You have to grow them in Carroll County or that quota is not worth anything.

That is how the system works. It is handed down. And you would say, ''Well, that's good. We are giving people a little bit more money for their product.'' Well, that is not necessarily true.

Who owns these quotas? What you will find is that most of the quotas are held by a very few people. In fact, 80 percent of the poundage that is owned in quota peanuts is owned by 6,182 quota holders. Then you have 20 percent of the poundage owned by 22,000 people. It is not surprising that there are a lot of very big interests that are concerned about keeping their quota poundage at a high level because they own a lot.

Now, are these the farmers? That is the next question. The answer is no, these are not the farmers. People who live in Atlanta get $1 million from rural peanut farmers because they own the quotas there in the city. They have been passed on from generation to generation. It is just like a stock they pass on from generation to generation, and

they get the money for people paying them rent.

Now, what do they get for these quotas? Well, remember, the price of a ton of peanuts is $678 for quota peanuts. The world price is about $350. How much do they rent these quota rights for? Oh, roughly $250. So all the profit from owning the quota does not go to the people who farm the land. It goes to the people who own the quota, who are not even the farmers.

In fact, of all the quota holders, only about 30 percent actually farm. The rest are owned by others who do not farm. Seventy percent of these quotas are owned by people who do not farm the land, but they just own this interest that has been passed on through generations and then they lease it out to folks who go out there and farm for basically the same income they could get growing additional peanuts. This is a feudal system. You have got a bunch of lords who sit in the castle who have these rights, who then go out and lease them out to people to go out and grow peanuts for them so they can make money.

This is not a profarmer provision. This is a system that is set up to enrich people from all over the country. Peanuts are grown basically in this area of the country, right down here in the South and Southwest, obviously, Georgia being the biggest.

But you can see, people from 46 States own quotas in Georgia. They do not even live in Georgia but they own quotas there. They get paid money by people who farm under their quota. In fact, if you go to the next chart you can see that it is not just people in the United States that are enriched by the quota program. There is quota rent going to foreign countries. You can see, Argentina, Great Britain, and Japan and Hong Kong and all these other countries around the world. People own these quotas from the United States. These are just for North Carolina, Georgia, Alabama, and Texas where these quota holders are from across the country and the world.

You can say, well, this program is a pretty low-cost program and the support price is not really that out of line with other support prices. Well, that is not true. If you look at what has happened in the support programs, you see that the support price for rice, milk, corn, and wheat all have decreased in the last 10 years. The only price that has gone up is peanuts, and it has gone up by 21 percent. It has grown. The support price of peanuts has gone up while the world price has not, further enriching quota holders, again, not farmers. Because as the price goes up, the quota price goes up, they just charge more for their quota. Farmers still get pretty much the same with or without the quota.

We have a peanut grower who is quoted in a farm magazine and says the 1995 crop could have a $200 million loss to the Government. In his words, ''It's not a pretty picture and won't win us any friends in Washington.'' Well, I will assure him of that. It will not win him any friends in Washington to cost $200 million in a program that does not go predominantly to farmers; it goes to wealthy people who own these quotas in the big cities. You have got a lot of small farmers out there basically in a feudal system growing peanuts for them.

Again, I want to show you the world price in graphic terms and what that means. Remember, if you want to buy peanuts in the United States, you have to buy them at $678 a ton. If you are a candy manufacturer and you want to buy peanuts for Snickers bars, you have to pay this. If you want to produce those Snickers bars in Canada, you pay $350 a ton.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. SANTORUM. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. I thank the Chair.

And so what happens? Well, not surprisingly, what is happening is we are losing jobs. We are enriching a very few people who own the majority of these quotas who do not farm the land, with Government dollars and higher prices. You pay about 20 cents to 30 cents more for a jar of peanut butter because of these high prices. And we lose jobs. We have a company that wrote me from Pennsylvania. They are one of many small candy manufacturers in Pennsylvania. I will quote. Pennsylvania Dutch Company is the name of it:

> Our Katherine Beecher Candies Division located in Manchester, PA, is a primary manufacturer of sugar-coated peanuts. The product contains approximately 60 percent peanuts and 40 percent sugar by weight. We employ 40 to 50 workers at this location, and have struggled for years to keep them employed year round. As part of this effort, we established a pretty nice volume market in Canada many years ago. Then a Canadian operator began to make the identical product, and we were no longer competitive with the Canadian folks using world price sugar—

That is another story—

> at $.16 a pound while we are paying about $.27 a pound here in the United States, because of another quota program here in Washington, DC—and we were paying about $.90 a pound for peanuts while the export prices were around $0.60. So, to continue to serve our customers and not lose this share of the market, we sold a technical know-how license to a friend of ours in Canada so he could supply peanuts to our former customers [in Canada] * * *. In all probability, we exported about three full time equivalent jobs.

That is going on all across the country. As peanut prices stay artificially high, we are losing jobs in manufacturing to other places around the world who can buy peanuts at almost half the price. It is no wonder we lose those jobs. And we are losing jobs here, too, because of it.

We have just in the last few years without reform: Shelling plants closed since 1990—these are plants that take the peanuts and shell them, take the shells off of them—Greenwood, FL, Graceville, FL, Cordele, GA, Donalsonville, GA, Sylvania, GA, Opp, AL. All those places have closed. Why? Because of the peanut program is killing domestic demand.

What happens? They make their peanuts into peanut butter. When peanut butter manufacturing shifts overseas demand for U.S. peanuts falls, and we lose jobs because the product is not made here. Why? Because peanut butter is too expensive here when you are paying $670 a ton of peanuts. You just cannot produce it here anymore.

Peanut butter plants that have closed since 1990: Portsmouth, VA, Cairo, GA, Birmingham, AL, Albany, GA, Wyoming, MI, Chaska, MN, Woodbury, GA, Brooklyn, NY, and Santa Fe Springs, CA. This is a widespread problem of closures of shelling and peanut butter plants.

Mr. President, we have a quota price for peanuts of $678 a ton and a price for nonquota peanuts of $350 a ton.

What does that mean? I was talking about peanut butter and the influx of peanut butter. Here is what we have seen over the last 5 years in the amount of peanut butter coming into this country because it is so much cheaper to take world price peanuts, turn them into peanut butter, and send them into our country.

Because of NAFTA, there are Canadian imports coming into this country. Those are jobs that used to be in the United States, now in Canada. Mexico is preparing to do the same thing right now as a result of Mexico being added.

We imported 40 million pounds of Canadian peanut butter in 1994. As a result, what is happening is that—in fact, I got a letter from a small candy manufacturer, a very small candy manufacturer, who sent a letter to me and an invoice from Argentina, for Argentine peanut butter. He paid 67.5 cents a pound delivered for the peanut butter. Had he bought it in the United States, he would have paid about $1 a pound, and he went on to say, ''The quality of the product is excellent.''

So we are losing jobs. This program is not helping farmers and it is costing jobs.

By the year 2000, under GATT and NAFTA, we are going to have to allow the import of more than 10 percent of our peanuts for domestic use. Our borders are going to start to open. We have this artificially set price of peanuts and have more imports coming in. We are going to have to import 130,000 tons of fresh peanuts under GATT and NAFTA.

I will tell you, there are a lot of growers out there who realize this is a problem coming down the road, this is a train heading right in the direction of growth.

I will quote a Virginia peanut grower, who said:

> I am a grower from Southhampton County, VA. I am also a holder of peanut quota poundage. The peanut program has worked for many years. However, with the passage of

GATT and NAFTA, as a result of that, our peanuts are priced too high.

He underlined ''too high.''

While I am vigorously in support of the peanut price support program, we cannot grow or even sustain our market share at the level of price support we are at today. . . I realize many of my farmer friends are opposed to a cut in price support, but not to do so will put many growers out of business. Create a larger influx of imports, and eventually put us growers out of business.

He is absolutely right.

This is a program that needs reform. In our bill we are gradually lowering the price of peanuts back down to the world marketplace over a 5-year period. We think that is fair. We believe that the industry today will be doomed and, really, the program does not help the farmer.

In fact, the next chart I want to show here is the cost of the program to the farmer—not to the quota holder, but the farmer. Here is the quota rent. About 16 percent of the cost of growing peanuts and selling peanuts is the quota rent they have to pay. Then they have another roughly 8 percent for renting the land, and the land values increase because of the quota. You have a quota that makes the value of the land that you are leasing much, much more expensive.

Finally—and this is something I had not mentioned—if you want to grow peanuts in the United States, you can do it. You have to have a quota to sell them here. But you cannot get your seeds just from anywhere. The seeds for peanuts have to be quota seeds. So you have to buy your seeds from people who grow quota peanuts. So you have an additional cost that you have to buy your seeds from quota holders, which, of course, is twice the world price of peanuts. So you have to buy very expensive seeds.

The peanut program comprises 28 percent of the cost of growers. I will quote from Forbes magazine of last year:

Don't want to make profits the hard way? For as little as 5 times the earnings, you can buy peanut growing rights. An owner who doesn't have to be a farmer can sell or rent the rights.

These are traded. It is your money—taxpayers dollars going to support these folks who play in this peanut game.

What Senator LUGAR, and now Senator BROWN, and I are proposing is a gradual phaseout of the program. We would eventually reduce the price support level. It is a market-oriented approach. It reduces the level, as I said, over a period of 5 years. It eliminates the minimum quota immediately. The present rules set a floor on quota issued of 1.35 million tons. Domestic consumption is less than this, even without counting imports. That is why the farmer I quoted earlier projects the high cost to the Government this year. We are allowing people to grow peanuts we know they cannot sell to anyone but the Government. So we are going to just open up the market place, allow people who want to grow peanuts to do it. Given the market price, obviously they can be competitive because people grow them now at the market price. They would not be doing it if they cannot make a profit.

Additionally, we get rid of this quota seed requirement, and you can plant whatever seeds you want for growing peanuts.

There are other proposals under discussion for the peanut program. One set of changes has been put forward by the quota holders. Their proposal is not reform. It removes the budget impact of the program, but does not address the trade or price issues. If adopted, the quota holder's proposal would doom the industry. Consumption has declined by 15 percent since last farm bill and imports are way up. This problem would only get worse if the quota holder's proposal were to be enacted.

Senators BROWN and BRADLEY introduced a bill that would eliminate the program immediately. Given how bad this program is, immediate elimination is probably justified. However, immediate elimination would create some transition problems.

In recognition of this, Senator LUGAR and I propose a compromise, which Senator BROWN has agreed to cosponsor. Under our bill, quota is gradually eliminated by a reduction of the price support level each year, until in the fifth year it is at the world price. In the fifth year, the quota system is eliminated. The transfer of quotas across county and State lines is allowed under our bill. The minimum level on the total of the quotas is eliminated. The artificially high prices from the program decreased domestic demand so sharply that the minimums that were viewed in 1990 just as a precaution by 1994 became a guarantee of overproduction and Government purchases.

Our bill will immediately remove some of the worst inequities of the present program. Under our bill additional peanuts may be used as seed. Under our bill, the Government may buy additional peanuts for nutrition programs, defense, prison meals, and other uses, saving the taxpayers millions. We would change the rules for the loan programs, so that additional growers would not have to offset losses of quota program.

After 2000, the quota system is ended. Farmers will not be left defenseless in a terrible year, because a recourse loan will be available with the loan level at 70 percent of the estimated market price. This provides a safety net, without the market distortions of the present program.

Our bill is real reform. It is also market oriented. It gets the Government out of the market place and lets the farmers farm.

Opponents of reform will contend that reform will destroy local economies in peanut areas. But with over half of the benefits going to quota owners who rent to others, the program mainly helps the wealthy—at the expense of farmers, consumers, and taxpayers. Most of the economic benefits of the system leave the local area and often the State. As I mentioned earlier, for farmers who rent, quota rent is biggest single cost—16 percent—and program increases the cost of seed and land—another 12 percent. In all, 28 percent of a renter's production costs are attributable to quota. The quota is mainly held by big farmers. The small farmers receive few of the benefits. In fact, 23 percent of farmers do not use quota. Either they have no access or they do not find renting quota worth the trouble.

This bill is strong medicine for an ailing program, but it will have benefits compared with current law. USDA analysis of a phase-down versus an extension of the status quo shows that by 2005/2006 under the status quo imports will be 124 million pounds but under a phase-down they will be 25 million pounds. Their analysis further shows that with the status quo, the effective price, that is the price that a quota renter would get after subtracting the quota rent would be 22.13 cents per pound, while with a phase-down it would be 26.35 cents per pound. These numbers do not include changes in seed or land costs, which make a phase-down look even more attractive. The bottom line is that phasing down quota and price supports will increase farmers income by $164 million over the next 5 years. Wealthy investors, the quota holders, are the only losers. They lose $310 million in quota rent.

Mr. President, the peanut program is Government gone wrong. The main support for program is by quota owners—most of whom are not peanut farmers. For them the program creates a lucrative return on their investment. This lucrative return comes directly from the farmers, who the program was supposed to help. This program treats farmers unfairly. Some farmers own quota, and get all the benefits of the artificially high price. Most must rent quota and must pay someone else to get access to the high price. Finally, some farmers have no access to quota and are excluded from the program. Instead they must sell their peanuts for export or to be crushed. In either case, the price is much lower than the quota price.

The existing program penalizes consumers. Unreformed, it would increase prices to first buyers by at least $1.5 billion over next five years. The program costs U.S. jobs and wastes Government money. In the absence of serious reform, the program may kill the goose that laid the golden egg by undermining the economics of domestic peanuts until the demand for domestic peanuts is too low to support handlers.

Mr. President, the evidence is clear that the peanut program no longer benefits farmers or rural communities in the way that was originally intended.

In fact, continuing the program without substantial changes will hurt farmers and poor, rural communities by making American peanuts uncompetitive in an increasingly global economy. If our products cannot compete, then real Americans lose jobs.

If we do not change this program now, there will be no peanut industry left to save by the next farm bill. It is time to reform this terrible program. This is the bill to do it.

By Mr. DEWINE (for himself and Mr. GRAHAM):

S. 1189. A bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products; to the Committee on the Judiciary.

THE RICKY RAY HEMOPHILIA RELIEF FUND ACT OF 1995

Mr. DEWINE. Mr. President, I rise today to introduce, along with my distinguished colleague Senator GRAHAM of Florida, the Ricky Ray Hemophilia Act of 1995. This legislation will serve as the counterpart to similar legislation introduced in the House of Representatives by Representative GOSS of Florida.

Mr. President, the purpose of this legislation is to offer some measure of relief to families that have suffered serious medical and financial setbacks because of their reliance on the Federal Government's protection of the blood supply.

Last month, the Institute of Medicine released the findings of a major investigation into how America's hemophilia community came to be decimated by the HIV virus.

In the early 1980's, America's blood supply was contaminated with HIV. Many Americans have become HIV-positive by transfusions of the HIV-tainted blood.

One particular group of Americans has been extremely hard-hit by this public health disaster. There are approximately 16,000 Americans who require lifelong treatment for hemophilia, a genetic condition that impairs the ability of blood to clot effectively.

In the early 1980's, more than 90 percent of the Americans suffering from Severe hemophilia were infected by the HIV virus.

More than 90 percent.

That is a major human tragedy. And the IOM report has alarming things to say about the level of Federal Government culpability for this disaster.

Point One. The Federal agencies responsible for blood safety did not show the appropriate level of diligence in screening the blood supply.

In January 1983, scientists from the Center for Disease Control recommended that blood banks use donor screening and deferral to protect the blood supply. According to the IOM report, and I quote, ''it was reasonable''—based on the scientific evidence available in January 1983—''to require blood banks to implement these two screening procedures.''

The report says—and I quote—that ''Federal authorities consistently chose the least aggressive option that was justifiable'' on donor screening and deferral.

The report's conclusion is—and I quote:

> The FDA's failure to require this is evidence that the agency did not adequately use its regulatory authority and therefore missed opportunities to protect the public health.

End of quote.

By January 1983, epidemiological studies by the Center for Disease Control strongly suggested that blood products transmitted HIV. First of all, it was becoming clear that blood recipients were getting AIDS—even though the recipients were not members of a known high-risk group. Second, the epidemiological pattern of AIDS was similar to that of another blood-borne disease (hepatitis).

According to the report, these two facts should have been enough of a tip-off to the public health authorities. As early as December 1982, the report says,

> [p]lasma collection agencies had begun screening potential donors and excluding those in any of the known risk groups.

The report says that Federal authorities should have required blood banks to do the same.

Point Two. The Federal agencies did not move as quickly as they should have to approve blood products that were potentially safer.

The IOM report says that certain heat treatment processes—processes that could have prevented many cases of AIDS in the hemophilia community—could have been developed earlier than 1980. I quote:

> In the interval between the decisions of early 1983 and the availability of a blood test for HIV in 1985, public health and blood industry officials became more certain that AIDS among hemophiliacs and transfused patients grew. As their knowledge grew, these officials had to decide about recall of contaminated blood products and possible implementation of a surrogate test for HIV. Meetings of the FDA's Blood Product Advisory Committee in January, February, July and December 1983 offered major opportunities to discuss, consider, and reconsider the limited tenor of the policies.

I say again, Mr. President: Major opportunities.

Major opportunities to change the course of the Government's blood-protection policies.

The report continues, and I quote:

> For a variety of reasons, neither physicians . . . nor the Public Health Service agencies actively encouraged the plasma fractionation companies to develop heat treatment measures earlier.
>
> Despite these opportunities and others to review new evidence and to reconsider earlier decisions, blood safety policies changed very little during 1983.

Mr. President, I cannot avoid agreeing with the conclusion of this report: ''[T]he unwillingness of the regulatory agencies to take a lead role in the crisis'' was one of the key factors that ''resulted in a delay of more than one year in implementing strategies to screen donors for risk factors associated with AIDS.''

Point Three. The Federal Government did not warn the hemophilia community, when the Government knew—or should have known—that there were legitimate concerns that the blood supply might not be safe.

According to the report, ''a failure of [government] leadership may have delayed effective action during the period from 1982 to 1984. This failure led to less than effective donor screening, weak regulatory actions, and''—this is the key, Mr. President—''insufficient communication to patients about the risks of AIDS.''

As a result, Mr. President, and I am again quoting from the report: ''individuals with hemophilia and transfusion recipients had little information about risks, benefits, and clinical options for their use of blood and blood products.'' The response of ''policymakers'' was ''very cautious and exposed the decision makers and their organizations to a minimum of criticism.''

In effect, Mr. President, the inertial reflex of bureaucratic caution led to a serious failure to protect the public health.

The Americans suffering from hemophilia were relying on their Government to exercise due care about the safety of the blood supply. It is my view, in light of the very important report released by the IOM, that the Government failed to meet its responsibilities to the hemophilia community.

The Government's failure caused serious harm to real people—people who were counting on the Government to meet its responsibilities.

A woman in Grove City, OH, lost her husband to AIDS and hemophilia two years ago. She writes—and I would like to quote this: ''[He] was a young man who died of AIDS from bad factor''—

Factor, Mr. President, is a product that helps blood to clot—a crucially important medical product for people who suffer from hemophilia.

She writes: He ''died of AIDS from bad factor, something . . . which we thought was saving his life, only to find that it would be a death sentence.''

This woman is speaking for every person in the hemophilia community who has lost a loved one because of the tainted blood supply.

A young woman from Jackson County, OH, tells a similar story. Her father was a farmer who had hemophilia. She writes:

> When a blood product (Factor IV) to help stop his bleeding came along, it opened up so many doors for him. He could now do his work not in pain . . . it would now be easier to just walk around. This medicine was thought to be a miracle. But things began to unravel, when I was 18, I found out my father was HIV positive, he had been infected from contaminated factor IV. He died approx. 1½

years later but not before he was stripped of self esteem, dignity, and the ability to do anything that made him who he was. . . .

He lost his ability to trust.

Trust, Mr. President. That is what this legislation is all about. A substantial number of citizens trusted the Government to exercise due vigilance, and the Government let them down. It is only right that the Government try to offer them some measure of relief.

Let me say a few words about the actual legislation I am introducing today. Mr. President, I recognize the budgetary realities we have to confront. As we move through the process, we will have to address the issue of compensation. I think it is absolutely essential that we begin this process—now.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ricky Ray Hemophilia Relief Fund Act of 1995''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Federal Government through the Secretary of Health and Human Services has the authority to protect the safety of the blood supply and blood products sold in this country;

(2) according to the 1995 Institute of Medicine Study entitled ''HIV and the Blood Supply'', the failure of the Federal Government to use its authority with regard to the safety of the blood supply and the blood products led to missed opportunities to prevent the spread of the human immunodeficiency virus (HIV) through blood and blood products;

(3) blood-clotting agents, called antihemophilic factor, that are used in the treatment of hemophilia are manufactured from the blood plasma of 10,000 to 20,000 or more donors, placing persons with hemophilia at particularly high risk for HIV during the period of 1980 to 1987;

(4) the failure of the Federal Government and the blood products industry to develop and implement known viral hepatitis inactivation processes prior to 1983 resulted in the exposure of the blood supply and blood products to HIV;

(5) although heat treatment of blood-clotting products became available in 1983, the Federal Government did not require the recall of nonheat treated products until 1989;

(6) as evidence became available concerning the transmission of HIV through the blood supply and blood products, the Federal Government did not take necessary and prompt action; failing to either require the blood industry to implement donor screening and deferral practices or to require the automatic recall of products linked to donors with or suspected of having AIDS;

(7) the Federal Government did not require the blood products industry to communicate directly with individuals with blood-clotting disorders regarding treatment options and the risks associated with contaminated blood products, nor did the Federal Government attempt to communicate fully to such individuals regarding these risks and possible treatment options;

(8) although a blood test for HIV became available in 1985, the Federal Government did not appropriately propose recommendations for a ''lookback'', the process of tracing recipients of possibly infected blood products, until 1991;

(9) individuals with blood-clotting disorders, such as hemophilia, who have HIV infections incur annual medical costs that often exceed $150,000, due to the expense of the necessary medications and the complications caused by the combination of the 2 illnesses;

(10) Ricky Ray was born with hemophilia and, like his 2 younger brothers and thousands of others, became infected with the deadly HIV through use of contaminated blood-clotting products;

(11) Ricky Ray and his family have brought national attention to the suffering of individuals with blood-clotting disorders, such as hemophilia, and their families, who have been devastated by HIV; and

(12) Ricky Ray died at the age of 15 on December 13, 1992, of hemophilia-associated AIDS, and this Act should bear his name.

(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to individuals who were infected with HIV after treatment, during the period beginning in 1980 and ending in 1987, with contaminated blood products.

SEC. 3. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Ricky Ray Hemophilia Relief Fund'', which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on and proceeds from any such investment shall be credited to and become part of the Fund.

(c) AVAILABILITY OF FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 5.

(d) TERMINATION.—The Fund shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of the 5-year period, investments of amounts in the Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Fund, and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund to carry out this Act $1,000,000,000.

SEC. 4. CLAIMS RELATING TO BLOOD-CLOTTING DISORDERS AND HIV.

Any individual who submits to the Attorney General written medical documentation that the individual has an HIV infection shall receive $125,000, from amounts available in the Fund, if each of the following conditions is met:

(1) CHARACTERISTICS OF INDIVIDUAL.—The individual is described in 1 of the following subparagraphs:

(A) The individual has any form of blood-clotting disorder, such as hemophilia, and was treated with blood-clotting agents (in the form of blood components or blood products) at any time during the period beginning on January 1, 1980, and ending on December 31, 1987.

(B) The individual—

(i) is the lawful spouse of an individual described in subparagraph (A); or

(ii) is the former lawful spouse of an individual described in subparagraph (A) and was the lawful spouse of the individual at any time after a date, within the period described in such subparagraph, on which the individual was treated as described in such subparagraph.

(C) The individual acquired the HIV infection through perinatal transmission from a parent who is an individual described in subparagraph (A) or (B).

(2) CLAIM.—A claim for the payment is filed with the Attorney General by or on behalf of the individual.

(3) DETERMINATION.—The Attorney General determines, in accordance with section 5(b), that the claim meets the requirements of this Act.

SEC. 5. DETERMINATION AND PAYMENT OF CLAIMS.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures under which individuals may submit claims for payment under this Act. The procedures shall include a requirement that each claim filed under this Act include written medical documentation that the relevant individual described in section 4(1)(A) has a blood-clotting disorder, such as hemophilia, and was treated as described in such section.

(b) DETERMINATION OF CLAIMS.—For each claim filed under this Act, the Attorney General shall determine whether the claim meets the requirements of this Act.

(c) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund, each claim that the Attorney General determines meets the requirements of this Act.

(2) PAYMENTS IN CASE OF DECEASED INDIVIDUALS.—

(A) IN GENERAL.—In the case of an individual referred to in section 4 who is deceased at the time that payment is made under this section on a claim filed by or on behalf of the individual, the payment shall be made to the estate of the individual, if such an estate exists. If no such estate exists, the payment may be made only as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, the payment shall be made to such surviving spouse.

(ii) If the individual is not survived by a spouse described in clause (i), the payment shall be made in equal shares to all children of the individual who are living at the time of the payment.

(iii) If the individual is not survived by a person described in clause (i) or (ii), the payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(B) FILING OF CLAIM BY ESTATE OR SURVIVOR.—If an individual eligible for payment under section 4 dies before filing a claim under this Act—

(i) the estate of the individual, if such an estate exists, may file a claim for payment under this Act on behalf of the individual; or

(ii) if no such estate exists, a survivor of the individual may file a claim for payment under this Act on behalf of the individual if the survivor may receive payment under subparagraph (A).

(C) DEFINITIONS.—For purposes of this paragraph:

(i) The term ''spouse'' means an individual who was lawfully married to the relevant individual.

(ii) The term ''child'' includes a recognized natural child, a stepchild who lived with the relevant individual in a regular parent-child relationship, and an adopted child.

(iii) The term ''parent'' includes fathers and mothers through adoption.

(3) TIMING OF PAYMENT.—The Attorney General may not make a payment on a claim under this Act before the expiration of the 90-day period beginning on the date of the enactment of this Act or after the expiration of the 5-year period beginning on the date of the enactment of this Act.

(4) CHOICE OF PAYMENT METHODS.—An individual whom the Attorney General determines to be entitled to a payment under subsection (c)(1) may choose to receive the payment in the form of—

(A) a lump sum of $125,000, which shall be paid not later than 90 days after the Attorney General determines that the individual is entitled to receive payment under subsection (c)(1); or

(B) 4 subpayments, of which—

(i) the 1st subpayment shall consist of $50,000 and shall be paid not later than 90 days after the Attorney General determines that the individual is entitled to receive payment under subsection (c)(1); and

(ii) the 2d, 3d, and 4th subpayments shall each consist of $25,000 and shall each be paid upon the expiration of the 6-month period beginning on the date of the preceding subpayment.

(d) ACTION ON CLAIMS.—The Attorney General shall complete the determination required by subsection (b) regarding a claim not later than 90 days after the claim is filed under this Act.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST UNITED STATES.—Payment under this Act, when accepted by an individual described in section 4 or by the estate of or a survivor of such an individual on behalf of the individual, shall be in full satisfaction of all claims of or on behalf of the individual against the United States (but not against any other person or entity) that arise out of both an HIV infection and treatment, at any time during the period beginning on January 1, 1980, and ending on December 31, 1987, with blood-clotting agents (in the form of blood components or blood products).

(f) ADMINISTRATIVE COSTS NOT PAID FROM FUND.—No costs incurred by the Attorney General in carrying out this Act may be paid from the Fund or set off against, or otherwise deducted from, any payment made under subsection (c)(1).

(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(h) TREATMENT OF PAYMENTS UNDER OTHER LAWS.—A payment under subsection (c)(1) to an individual or an estate—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages received on account of personal injuries or sickness; and

(2) shall not be included as income or resources for purposes of determining the eligibility of the individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out the functions of the Attorney General under this Act.

(j) REGULATORY AUTHORITY.—The Attorney General may issue regulations necessary to carry out this Act.

(k) TIME OF ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—The initial regulations, guidelines, and procedures to carry out this Act shall be issued not later than 90 days after the date of the enactment of this Act.

(l) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if the denial is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

SEC. 6. LIMITATION ON TRANSFER AND NUMBER OF CLAIMS.

(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—A claim under this Act shall not be assignable or transferable.

(b) 1 CLAIM WITH RESPECT TO EACH VICTIM.—With respect to each individual described in subparagraph (A), (B), or (C) of section 4(1), the Attorney General may not pay more than 1 claim filed to receive compensation under this Act for the harm suffered by the individual.

SEC. 7. LIMITATIONS ON CLAIMS.

The Attorney General may not pay any claim filed under this Act unless the claim is filed within 3 years after the date of the enactment of this Act.

SEC. 8. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.

A payment made under section 5(c)(1) shall not be considered as any form of compensation, or reimbursement for a loss, for purposes of imposing liability on the individual receiving the payment, on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker's compensation payments. A payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 9. LIMITATION ON AGENT AND ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than 5 percent of a payment made under this Act on the claim. Any such representative who violates this section shall be fined not more than $50,000.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) The term ''AIDS'' means acquired immune deficiency syndrome.

(2) The term ''Fund'' means the Ricky Ray Hemophilia Relief Fund.

(3) The term ''HIV'' means human immunodeficiency virus.

• Mr. GRAHAM. Mr. President, I am pleased to be announcing the introduction of the Ricky Ray Hemophilia Relief Fund Act of 1995 with Senator DEWINE in the U.S. Senate. This legislation is a companion to H.R. 1023, which was introduced by Florida Congressman PORTER GOSS and now has 115 cosponsors.

The introduction of this bill comes less than a month after the release of a report by the National Academy of Sciences's Institute of Medicine [IOM] entitled ''HIV and the Blood Supply: An Analysis of Crisis Decisionmaking.''

The report, issued on July 13, 1995, came about as a result of a request in April 1993 from Senator KENNEDY, Congressman GOSS and me to Secretary of Health and Human Services Donna Shalala to open an investigation into the events leading to the transmission of HIV to persons with hemophilia from the use of contaminated blood products regulated by the U.S. Government.

Secretary Shalala commissioned the study by the IOM. The report was the final product of an 18-month extensive review by an independent, scientific panel of experts of the events between 1982 and 1986 that lead to the infection of over 8,000 persons with hemophilia with HIV through the use of blood products.

The IOM report is critical in understanding how this tragedy came to be and what actions need to be taken to change the system and better protect the blood supply in the future from other unforeseen viruses. The report's chronology of events tells a tragic story when the first case of immune deficiency linked to blood products was reported in a Floridian with hemophilia in January 1982.

As also documented in Randy Shilt's book ''And the Band Played On: Politics. People and the AIDS Epidemic,'' evidence grew over the year that others with hemophilia were being infected and at least two transfusion-related AIDS cases were also reported. In June 1982, the first warning was issued by the Centers for Disease Control [CDC] to clotting-concentrate manufacturers, other Federal health agencies and the National Hemophilia Foundation.

According to Harvey M. Sapolsky and Stephen L. Boswell in ''The History of Transfusion AIDS: Practice and Policy Alternatives,'' ''Weighing this evidence, the CDC epidemiologists began warning representatives of the several blood-banking organizations that the blood supply was possibly being contaminated with AIDS. These discussions culminated in a meeting in Atlanta in early January 1983, at which proposals were presented to screen out from the blood donor pool members of high-risk groups.''

Sapolsky and Boswell add, ''The opposition of the whole-blood collectors delayed governmental action intended to reduce the risks of AIDS transmission through transfusions. It was not until March 1983 that the Centers for Disease Control made public the recommendations for widespread screening.'' Moreover, it was not until even February 1984 that manufacturers included warnings about AIDS on their blood products—over 18 months after CDC's original warning.

Calls for blood testing for evidence of hepatitis B with a core antibody test were also being made during the period. According to Sapolsky and Boswell, ''The Food and Drug Administration's Blood Products Advisory Committee studied the issues pertaining to screening the blood supply in early 1984, concluding that surrogate testing, and most specifically the hepatitis B core antibody test, was not appropriate as a means of identifying those at high risk for developing AIDS because it screened out too much of the blood supply.'' While some testing did occur like that at Stanford University Blood Bank, it was far from pervasive.

In March 1985, the FDA licensed and put into place the first blood test for HIV antibodies. Meanwhile, due to the fact that clotting factors are made from pooled plasma lots composed of thousands of donors, approximately one-half of the estimated 20,000 Americans with hemophilia contracted AIDS. The result was, as Michael McLeod reports in his article''Bad Blood'' which

was printed in the Orlando Sentinel on December 19, 1993, ''a quiet death march, caused by one of the worst medically induced calamities in history—one that has claimed more than 1,600 Americans already, with at least 8,000 more sure to follow.''

With respect to some of the clear steps that could have been taken in the early 1980's to protect the blood supply, the IOM writes:

''* * * preference for the status quo under the prevailing conditions of uncertainty and danger led decision makers to underestimate the threat of AIDS for blood recipients. The Committee concluded that when confronted with a range of options for using donor screening and deferral to reduce the probability of spreading HIV through the blood supply, blood bank officials and federal authorities consistently chose the least aggressive option * * * The FDA's failure to require [the implementation of screening procedures] is evidence that the agency did not adequately use its regulatory authority and therefore missed opportunities to protect the public health.

A passage from Michael Crichton's book ''The Andromeda Strain'' is particularly relevant to this report. It reads:

* * * I think it is important that the story be told. This country supports the largest scientific establishment in the history of mankind. New discoveries are constantly being made, and many of these discoveries have important political and social overtones. In the near future, we can expect more crises on the pattern of Andromeda. Thus I believe it is useful for the public to be made aware of the way in which scientific crises arise, are dealt with.

As a result, I urge the Government Affairs Committee and Labor and Human Resources Committee to closely review this report, to learn from past mistakes, and to move quickly to enact the 14 recommendations made by the IOM to improve the safety of our Nation's blood supply.

In recommendation No. 3, the IOM panel proposes a no-fault compensation program prospectively for future victims who suffer adverse consequences from the use of blood and blood products. Although the IOM panel felt that the question of what to do about past victims were outside its purview, the IOM suggests that its protective recommendation ''might serve to guide policymakers as they consider whether to implement a compensation system for those infected in the 1980's.''

As a result, I urge my colleagues to review the Ricky Ray Hemophilia Relief Fund Act, which establishes a compensation program for the victims of HIV infection from blood products in the 1980's. It is based on the premise that the Federal Government shares responsibility for what happened. As the IOM writes, ''* * * public concern about the inherent risks of blood and blood products has led the federal government through the agencies of the U.S. Public Health Service to take the lead in ensuring blood safety.''

Unfortunately for the hemophilia community, the Federal Government through the Food and Drug Administration [FDA] failed to adequately protect the blood supply in the early 1980's because it ''did not adequately use its regulatory authority,'' did not heed the warnings made by the Centers for Disease Control and Prevention [CDC] about the danger to the blood supply, ''consistently chose the least aggressive option that was justifiable'' and overly relied on the blood industry ''for analysis of data and modeling of decision making.''

The IOM concludes in its executive summary that:

The National Blood Policy of 1973 charges the Public Health Service (including the CDC, the FDA, and the NIH) with responsibility for protecting the nation's blood supply. The Committee has come to believe that a failure of leadership may have delayed effective action during the period from 1982 to 1984. This failure led to less than effective donor screening, weak regulatory actions, and insufficient communication to patients about the risks of AIDS.

As for the title of this bill, it is named after a victim from the State of Florida. On December 13, 1992, Ricky Ray, a teenage boy in east Orange County, FL, died at home after his 6-year battle against AIDS and 15-year or lifelong battle with hemophilia. I attended Ricky's funeral later that week and read a letter from then President-elect Bill Clinton who, like I, was profoundly affected by this incredible human being and his family.

In remembering Ricky, words such as perseverance and wisdom come to mind. Ricky and his family have, since that revelation in 1986, lived with the pain and questions caused by this horrible virus called AIDS. If that is not enough, there was also the pain of being banned from school in 1987, having their home burned down by an arsonist shortly thereafter, and spending a tremendous amount of time in court fighting with the DeSoto County School District and the pharmaceutical companies that sold the Ray family the contaminated blood products.

Despite it all, Ricky was committed to teach others about his disease. His mother, Louise Ray, said of Ricky in an article written by Monica Davey at the St. Petersburg Times, ''He believed that his track in life was to educate people about a disease that nobody knew about. He believed that was his purpose.'' His father Clifford added, ''Ricky was a very old soul. He had a wisdom about him.''

Like others with hemophilia and AIDS, Ricky was interested in answers to the questions of why. Why did this happen and why was not more done to prevent this tragedy? As a result, it is in his name that the request for the IOM report was made and that this bill is named.

As Harold L. Dalton, an editor of ''AIDS Law Today: A New Guide for the Public,'' writes:

. . . we should remember that just as the law frames society's response to the AIDS epidemic, the society as a whole shapes the law. Like it or not, we must decide what kind of society we will be: mean-spirited, shortsighted, and judgmental or compassionate, clearheaded, and accepting. In the end, society will determine where the burden of AIDS—social, financial, and emotional—will fall. We can make the choice consciously and purposely, or we can make it by indirection or default, but make it we will.

When Ricky saw the headline that ''Ryan White loses battle with AIDS,'' he was very upset. As quoted by McLeod, he said to his mother, ''If I die, don't let them write that about me. Don't let them say that I lost. Just because you die, that doesn't mean you gave up. That doesn't mean you lost.'' Ricky is right because his call for answers, help for those with AIDS and fight for the safety of the blood supply lives on.●

By Mr. DEWINE (for himself and Mr. GLENN):

S. 1190. A bill to establish the Ohio & Erie Canal National Heritage Corridor in the State of Ohio, and for other purposes; to the Committee on Energy and Natural Resources.

NORTHEAST CORRIDOR LEGISLATION

Mr. DEWINE. Mr. President, I rise today to introduce legislation that will establish an 87-mile section of the Ohio and Erie Canal between Cleveland and Zoar, OH, as a National Heritage Corridor.

Mr. President, the people of northeast Ohio are committed to preserving the rich historical heritage of this part of our State.

I think the kind of Federal protection envisioned by this legislation is long overdue.

In 1991, Congress funded a study by the National Park Service to explore the proposed corridor area—and to examine various suggestions on how to make the best possible use of this terrific resource.

The Park Service's research concluded that this area was suitable for inclusion in the National Park System as an affiliated area.

The bill I am introducing would act on that recommendation.

This bill would establish funding for the project through a cost-shared public-private partnership with the Department of the Interior. It requires that every Federal dollar be matched—one-for-one—by money from local investors.

Mr. President, knowing the great enthusiasm that exists for this project in the numerous affected communities in northeast Ohio, I am extremely confident about the response we can expect to this system of matching funds.

The bill provides for up to $250,000 per year for 3 years in funding for the management entity of this historic corridor.

In addition, it provides for development grants of $1.5 million per year for up to 6 years. These grants would require a 70-percent non-Federal match.

Mr. President, Ohio is ready to grant one of its most beautiful and historic areas the measure of respect and protection it truly deserves. I agree with

the National park Service—and with the people of Ohio—on this issue. And that's why I am proposing this legislation today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ohio & Erie Canal National Heritage Corridor Act of 1995''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Ohio & Erie Canal, which opened for commercial navigation in 1832, was the first inland waterway to connect the Great Lakes at Lake Erie with the Gulf of Mexico via the Ohio and Mississippi Rivers and a part of a canal network in Ohio that was one of America's most extensive and successful systems during a period in history when canals were essential to the Nation's growth;

(2) the Ohio & Erie Canal spurred economic growth in the State of Ohio that took the State from near bankruptcy to the third most economically prosperous State in the Union in just 20 years;

(3) a 4-mile section of the Ohio & Erie Canal was designated a National Historic Landmark in 1966 and other portions of the Ohio & Erie Canal and many associated structures were placed on the National Register of Historic Places;

(4) in 1974, 19 miles of the Ohio & Erie Canal were declared nationally significant under National Park Service new area criteria with the designation of Cuyahoga Valley National Recreation Area;

(5) the National Park Service found the Ohio & Erie Canal nationally significant in a 1975 study entitled ''Suitability/Feasibility Study, Proposed Ohio & Erie Canal'';

(6) a 1993 Special Resources Study of the Ohio & Erie Canal Corridor conducted by the National Park Service entitled ''A Route to Prosperity'' has concluded that the corridor is eligible as a National Heritage Corridor; and

(7) local governments, the State of Ohio and private sector interests have embraced the heritage corridor concept and desire to enter into partnership with the Federal Government to preserve, protect, and develop the corridor for public benefit.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within the 87-mile Ohio & Erie Canal Corridor between Cleveland and Zoar;

(2) to encourage within the corridor a broad range of economic opportunities enhancing the quality of life for present and future generations;

(3) to provide a management framework to assist the State of Ohio, political subdivisions of the State, and nonprofit organizations, or combinations thereof, in preparing and implementing an integrated Corridor Management Plan and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the corridor; and

(4) to authorize the Secretary to provide financial and technical assistance to the State of Ohio, political subdivisions of the State, and nonprofit organizations, or combinations thereof, in preparing and implementing a Corridor Management Plan.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADVISORY COMMISSION.—The term ''Advisory Commission'' means the Ohio & Erie Canal National Heritage Corridor Advisory Commission established under section 5.

(2) CORRIDOR.—The term ''corridor'' means the Ohio & Erie Canal National Heritage Corridor established under section 4.

(3) CORRIDOR MANAGEMENT PLAN.—The term ''Corridor Management Plan'' means the management plan developed under section 9.

(4) FINANCIAL ASSISTANCE.—The term ''financial assistance'' means funds made available by Congress, and made available to the management entity, for the purposes of preparing and implementing a Corridor Management Plan.

(5) MANAGEMENT ENTITY.—The term ''management entity'' means the State of Ohio, political subdivisions of the State, and private nonprofit organizations, or any combination thereof, as designated by the Secretary pursuant to section 7(a) to receive, distribute, and account for Federal funds made available for the purposes of this Act.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) TECHNICAL ASSISTANCE.—The term ''technical assistance'' means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

SEC. 4. OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of Ohio the Ohio & Erie Canal National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the corridor shall be composed of the lands that area generally follow the route of the Ohio & Erie Canal from Cleveland to Zoar, Ohio, as depicted in the 1993 National Park Service Special Resources Study, ''A Route to Prosperity'', subject to paragraph (2). The specific boundaries shall be the boundaries specified in the management plan submitted under section 9. The Secretary shall prepare a map of the area which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(2) CONSENT OF LOCAL GOVERNMENTS.—No privately owned property shall be included within the boundaries of the corridor unless the municipality in which the property is located agrees to be so included and submits notification of the agreement to the Secretary.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with this Act.

SEC. 5. OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The Secretary is authorized to establish the Ohio & Erie Canal National Heritage Corridor Advisory Commission whose purpose shall be to assist Federal, State, and local authorities and the private sector in the preparation and implementation of an integrated Corridor Management Plan.

(b) MEMBERSHIP.—The Advisory Commission shall be comprised of 21 members, as follows:

(1) 4 individuals appointed by the Secretary, after consideration of recommendations submitted by the Greater Cleveland Growth Association, the Akron Regional Development Board, the Stark Development Board, and the Tuscarawas County Chamber of Commerce, who shall include 1 representative of business and industry from each of the Ohio counties of Cuyahoga, Summit, Stark, and Tuscarawas.

(2) 1 individual appointed by the Secretary, after consideration of recommendations submitted by the Director of the Ohio Department of Travel and Tourism, who is a director of a convention and tourism bureau within the corridor.

(3) 1 individual appointed by the Secretary, after consideration of recommendations submitted by the Ohio Historic Preservation Officer, with knowledge and experience in the field of historic preservation.

(4) 1 individual appointed by the Secretary, after consideration of recommendations submitted by the Director of the National Park Service, with knowledge and experience in the field of historic preservation.

(5) 3 individuals appointed by the Secretary, after consideration of recommendations submitted by the county or metropolitan park boards in the Ohio counties of Cuyahoga, Summit, and Stark.

(6) 8 individuals appointed by the Secretary, after consideration of recommendations submitted by the county commissioners or county chief executive of the Ohio counties of Cuyahoga, Summit, Stark and Tuscarawas, including from each county—

(A) 1 representative of the planning offices of the county; and

(B) 1 representative of a municipality in the county.

(7) 2 individuals appointed by the Secretary, after consideration of recommendations submitted by the Governor of Ohio, who shall be representatives of the Directors of the Ohio Department of Natural Resources and the Ohio Department of Transportation.

(8) The Superintendent of the Cuyahoga Valley National Recreation Area, as an ex officio member.

(c) APPOINTMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Advisory Commission shall be appointed for terms of 3 years and may be reappointed.

(2) INITIAL APPOINTMENTS.—The Secretary shall appoint the initial members of the Advisory Commission not later than 30 days after the date on which the Secretary has received all recommendations pursuant to subsection (b). Of the members first appointed—

(A) the members appointed pursuant to subsection (b)(6)(B) shall be appointed to a term of 2 years and may not be reappointed to a consecutive term; and

(B) the member appointed pursuant to subsection (b)(2) shall be appointed to a term of 2 years and may not be reappointed to a consecutive term.

(d) CHAIRPERSON AND VICE CHAIRPERSON.—The chairperson and vice chairperson of the Advisory Commission shall be elected by the members of the Advisory Commission. The terms of the chairperson and vice chairperson shall be 2 years.

(e) VACANCY.—A vacancy in the Advisory Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of the term. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of the term of the member until the successor of the member has taken office.

(f) COMPENSATION AND EXPENSES.—A member of the Advisory Commission shall serve without compensation for the service of the member on the Advisory Commission.

(g) QUORUM.—Eleven members of the Advisory Commission shall constitute a quorum.

(h) MEETINGS.—The Advisory Commission shall meet at least quarterly at the call of the chairperson or at least 11 members of the

Advisory Commission. Meetings of the Advisory Commission shall be subject to section 552b of title 5, United States Code.

(i) TERMINATION OF ADVISORY COMMISSION.—The Advisory Commission shall terminate on the date occurring 6 years after the Commission is established by the Secretary.

SEC. 6. POWERS OF ADVISORY COMMISSION.

(a) HEARINGS.—The Advisory Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Advisory Commission considers appropriate. The Advisory Commission may not issue subpoenas or exercise any subpoena authority.

(b) BYLAWS.—The Advisory Commission may make such bylaws and rules, consistent with this Act, as the Commission considers necessary to carry out this Act.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Advisory Commission, if so authorized by the Advisory Commission, may take any action that the Advisory Commission is authorized to take under this Act.

SEC. 7. DUTIES OF ADVISORY COMMISSION.

(a) MANAGEMENT ENTITY.—On public solicitation of proposals from entities representing the State of Ohio, political subdivisions of the State, and nonprofit organizations, or combination thereof, the Advisory Commission shall, not later than 90 days after the first meeting of the Commission, submit a recommendation to the Secretary for designation of a management entity for the corridor pursuant to section 8.

(b) CORRIDOR MANAGEMENT PLAN.—On submission of a draft Corridor Management Plan to the Advisory Commission from the management entity, the Advisory Commission shall, not later than 60 days after submission, review the plan for consistency with the purposes of this Act and endorse the plan or return the plan to the management entity for revision. On endorsement of the Corridor Management Plan, the Advisory Commission shall submit the plan to the Secretary for approval pursuant to section 9.

(c) REVIEW OF BUDGET.—The Advisory Commission shall review on an annual basis the proposed expenditures of Federal funds by the management entity for consistency with the purpose of this Act and the Corridor Management Plan.

SEC. 8. MANAGEMENT ENTITY.

(a) DESIGNATION.—Not later than 30 days after the date on which the recommendation of the Advisory Commission is received pursuant to section 7(a), the Secretary shall designate the management entity.

(b) ELIGIBILITY.—To be eligible for designation as the management entity of the corridor, an entity must possess the legal ability to—

(1) receive Federal funds for use in preparing and implementing the management plan for the corridor;

(2) disburse Federal funds to other units of government or other organizations for use in preparing and implementing the management plan for the corridor;

(3) account for all Federal funds received or disbursed; and

(4) sign agreements with the Federal Government.

(c) FEDERAL FUNDING.—

(1) AUTHORIZATION TO RECEIVE.—The management entity is authorized to receive Federal funds made available to carry out this Act.

(2) DISQUALIFICATION.—If a management plan for the corridor is not submitted to the Secretary as required under section 9 within the time specified, the management entity shall cease to be eligible to receive Federal funding under this Act until such a plan regarding the corridor is submitted to the Secretary.

(d) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity of the corridor may, for purposes of preparing and implementing the management plan for the area, use Federal funds made available under this Act—

(1) to make grants and loans to the State of Ohio, political subdivisions of the State, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with, or provide technical assistance to Federal agencies, the State of Ohio, political subdivisions of the State, nonprofit organizations, and other persons;

(3) to hire and compensate staff;

(4) to obtain funds from any source under any program or law requiring the recipient of the funds to make a contribution to receive the funds; and

(5) to contract for goods and services.

(e) DURATION OF ELIGIBILITY FOR FINANCIAL ASSISTANCE.—The management entity for the corridor shall be eligible to receive funds made available to carry out this Act for the following periods:

(1) OPERATIONS.—In the case of operating costs described in section 15(a)(1), for a period of 3 years beginning on the date the Secretary has designated the management entity pursuant to subsection (c).

(2) DEVELOPMENT.—In the case of development costs described in section 15(a)(2), for a period of 6 years beginning on the date the Secretary has designated the management entity pursuant to subsection (c).

(f) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The management entity for the corridor may not use Federal funds received under this Act to acquire real property or any interest in real property.

SEC. 9. DUTIES OF MANAGEMENT ENTITY.

(a) CORRIDOR MANAGEMENT PLAN.—

(1) SUBMISSION FOR REVIEW BY ADVISORY COMMISSION.—Not later than 18 months after the date on which the Secretary has designated a management entity for the corridor, the management entity shall develop and submit for review to the Advisory Commission a management plan for the corridor.

(2) PLAN REQUIREMENTS.—A management plan submitted under this Act shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the corridor;

(B) be prepared with public participation;

(C) take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the corridor;

(D) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the corridor;

(E) specify existing and potential sources of funding for the conservation, management, and development of the area; and

(F) include, as appropriate—

(i) an inventory of the resources contained in the corridor, including a list of property in the corridor that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as the property relates to the themes of the corridor;

(ii) a recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the corridor in a manner consistent with the support of appropriate and compatible economic viability;

(iii) a program, including plans for restoration and construction, for implementation of the management plan by the management entity and specific commitments, for the first 6 years of operation of the plan by the partners identified in the plan;

(iv) an analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this Act; and

(v) an interpretive plan for the corridor.

(3) APPROVAL AND DISAPPROVAL OF THE CORRIDOR MANAGEMENT PLAN.—

(A) IN GENERAL.—On submission of the Corridor Management Plan from the Advisory Commission, the Secretary shall approve or disapprove the plan not later than 60 days after receipt. If the Secretary has taken no action 60 days after receipt, the plan shall be considered approved.

(B) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves the Corridor Management Plan, the Secretary shall advise the Advisory Commission, in writing, of the reasons for the disapproval and shall make recommendations for revisions of the plan. The Secretary shall approve or disapprove the proposed revisions to the plan not later than 60 days after receipt. If the Secretary has taken no action 60 days after receipt, the plan shall be considered approved.

(b) PRIORITIES.—The management entity shall give priority to the implementation of actions, goals, and policies set forth in the management plan for the corridor, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations in—

(A) conserving the corridor;

(B) establishing and maintaining interpretive exhibits in the corridor;

(C) developing recreational opportunities in the area;

(D) increasing public awareness of, and appreciation for, the natural, historical, and cultural resources of the corridor;

(E) the restoration of historic buildings that are located within the boundaries of the corridor that relate to the themes of the corridor; and

(F) ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are installed throughout the corridor; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in preparing and implementing the management plan for the corridor, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(d) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least quarterly regarding the implementation of the Corridor Management Plan.

(e) ANNUAL REPORTS.—For any fiscal year in which the management entity receives Federal funds under this Act or in which a loan made by the entity with Federal funds under section 8(d)(1) is outstanding, the entity shall submit an annual report to the Secretary setting forth the accomplishments of the entity, the expenses and income of the entity, and the entities to which the entity made any loans and grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—For any fiscal year in which the management entity receives Federal funds under this Act or in which a loan made by the entity with Federal funds under section 8(d)(1) is outstanding, the entity shall—

(1) make available for audit by Congress, the Secretary, and appropriate units of government all records and other information

pertaining to the expenditure of the funds and any matching funds; and

(2) require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for the audit all records and other information pertaining to the expenditure of the funds.

SEC. 10. WITHDRAWAL OF DESIGNATION.

(a) IN GENERAL.—The National Heritage Corridor designation shall continue unless—

(1) the Secretary determines that—

(A) the use, condition, or development of the corridor is incompatible with the purpose of this Act; or

(B) the management entity of the corridor has not made reasonable and appropriate progress in preparing or implementing the management plan for the corridor; and

(2) after making a determination referred to in paragraph (1), the Secretary submits to the Congress notification that the corridor designation should be withdrawn.

(b) PUBLIC HEARING.—Before the Secretary makes a determination referred to in subsection (a)(1) regarding the corridor, the Secretary shall hold a public hearing within the area.

(c) TIME OF WITHDRAWAL OF DESIGNATION.—

(1) IN GENERAL.—The withdrawal of the corridor designation of the corridor shall become final 90 legislative days after the Secretary submits to Congress any notification referred to in subsection (a)(2) regarding the corridor.

(2) LEGISLATIVE DAY.—For purposes of this subsection, the term ''legislative day'' means any calendar day on which both Houses of the Congress are in session.

SEC. 11. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide technical assistance to units of government, nonprofit organizations, and other persons, on request of the management entity of the corridor, regarding the management plan and the implementation of the plan.

(B) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance under this section, require any recipient of the technical assistance to enact or modify land use restrictions.

(C) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall decide if the corridor shall be awarded technical assistance and the amount of the assistance. The decision shall be based on the relative degree to which the corridor effectively fulfills the objectives contained in the Corridor Management Plan and achieves the purposes of this Act. The decision shall give consideration to projects that provide a greater leverage of Federal funds.

(2) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the general public with information regarding the location and character of the corridor.

(3) OTHER ASSISTANCE.—On request, the Superintendent of Cuyahoga Valley National Recreation Area may provide to public and private organizations within the corridor (including the management entity for the corridor) such operational assistance as appropriate to support the implementation of the Corridor Management Plan, subject to the availability of appropriated funds. The Secretary is authorized to enter into cooperative agreements with public and private organizations for the purposes of implementing this paragraph.

(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal entity conducting any activity directly affecting the corridor shall consider the potential effect of the activity on the Corridor Management Plan and shall consult with the management entity of the corridor with respect to the activity to minimize the adverse effects of the activity on the corridor.

SEC. 12. LACK OF EFFECT ON LAND USE REGULATION AND PRIVATE PROPERTY.

(a) LACK OF EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this Act modifies, enlarges, or diminishes any authority of Federal, State, or local governments to regulate any use of land as provided for by law (including regulations).

(b) LACK OF ZONING OR LAND USE POWERS.—Nothing in this Act grants powers of zoning or land use control to the Advisory Commission or management entity of the corridor.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Act affects or authorizes the Advisory Commission to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State of Ohio or a political subdivision of the State.

SEC. 13. FISHING, TRAPPING, AND HUNTING SAVINGS CLAUSE.

(a) NO DIMINISHMENT OF STATE AUTHORITY.—The designation of the corridor shall not diminish the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting and trapping within the corridor.

(b) NO CONDITIONING OF APPROVAL AND ASSISTANCE.—The Secretary may not make limitations on fishing, hunting, or trapping a condition of the determination of eligibility for assistance under this Act. The Secretary and any other Federal agency may not make the limitations a condition for the receipt, in connection with the corridor, of any other form of assistance from the Secretary or the agencies.

SEC. 14. COST SHARE.

(a) OPERATING COSTS.—The Federal contribution under this Act to the management entity for operations expenditures shall not exceed 50 percent of the annual operating costs of the entity attributed to preparation and implementation of the Corridor Management Plan. The non-Federal share of the support may be in the form of cash, services, or in-kind contributions, fairly valued.

(b) DEVELOPMENT COSTS.—The Federal contribution under this Act to the management entity to implement the Corridor Management Plan shall not exceed 30 percent of the annual development costs attributable to the implementation of the Corridor Management Plan. The non-Federal share of the support may be in the form of cash, services, or in-kind contributions, fairly valued.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the management entity—

(1) $250,000 for each of fiscal years 1996 through 1998 for the operating costs of the management entity to carry out duties pursuant to section 9; and

(2) $1,500,000 for each of fiscal years 1996 through 2001 for planning, design, construction, grants, and loans to implement the approved Corridor Management Plan;

to remain available until expended.

(b) AVAILABILITY OF FUNDS PRIOR TO SECRETARIAL APPROVAL OF MANAGEMENT PLAN.—Funds may be spent prior to Secretarial approval of the Corridor Management Plan for early actions that are important to the themes of the area and that protect resources that would be in imminent danger of irreversible damage without the early actions.

By Mr. PRYOR:

S. 1191. A bill to provide for the availability of certain generic human and animal drugs, and for other purposes; to the Committee on Labor and Human Resources.

THE CONSUMER ACCESS TO PRESCRIPTION DRUGS ACT

Mr. PRYOR. Mr. President, 2 months ago, I came to the floor to alert my colleagues to a two-pronged problem. This problem poses an unexpected threat to our implementation of the GATT treaty, as well as to our efforts to contain health care costs in the United States.

It has a complicated history, but it boils down to this: unless the Congress acts soon, the GATT treaty will be improperly implemented and consumers will foot a multibillion dollar windfall to a handful of underserving companies.

When the Congress passed the GATT treaty last year, we knew we were improving our country's standing in international trade. We knew the benefits would come in more exports and more jobs. We had no idea we were unintentionally forcing American consumers, HMO's, hospitals, and even the government to pay higher prices for a small number of prescription drugs.

We included ''transition provisions'' in the GATT treaty to accomplish two things. First, the treaty gives current patent holders a patent extension. Second, those generic competitors which had been planning and investing to go to market on the original date of patent expiry may do so as long as they paid compensation to the patent holders. We saw this as an elegant compromise which satisfied all of the commercial interests at stake.

But despite the intent of both the Congress and the U.S. Trade Representative [USTR] to apply these provisions to all industries in an equitable fashion, the prescription drug industry was inadvertently excluded from their scope. This came about due to a simple mistake. We failed to change the language of an obscure but vitally important law regulating prescription drugs, known as the Hatch-Waxman amendments. The mistake has had some costly and unnecessary consequences.

Our unintentional error forced the Food and Drug Administration [FDA] to rule that they could not allow equivalent but lower-cost generic drugs onto the market until the patent extension ended. In other words, a small number of drug manufacturers receive a patent extension but avoid facing generic competition during that time. This is unprecedented and unparalleled among the dozens of other industries and thousands of other companies affected by the GATT treaty. This is simply unfair.

The Consumer Access to Prescription Drugs Act restores the universal scope of the GATT treaty in the United States. It does so without altering the treaty or amending the treaty's implementing legislation. It does not alter the new patents granted by the GATT

treaty. It simply ensures that the prescription drug industry is subject to the GATT transitional provisions in the same manner as all other American industries.

Let me make clear that Congress also did not intend the current, disastrous state of affairs to occur. In fact, when the FDA was asked to look into the situation, they looked for direction from Congress. At the time of its passage, we had spent a tremendous amount of time discussing GATT. It was an issue of great importance. But when the FDA looked at the entirely of the record of our proceedings—our hearings, our report language and all of the floor debate in the House and the Sente—what did they find?

There were neither hearings nor a single word of debate on the floor of the House or Senate on the impact of the URAA on the 1984 Waxman-Hatch Amendments. Nor do the committee reports indicate that Congress understood that the URAA would both grant a patent term extension for certain pioneer products and block FDA from approving generic versions of those drugs until the extended patent terms have expired. Nonetheless, the language of the URAA directs that result.

In sum, the FDA concluded that the language of the URAA does not reflect the legislative intent which Congress desired.

Nor did the U.S. Trade Representative desire this abused outcome. On May 19, Ambassador Mickey Kantor wrote to emphasize that the ''intention of the URAA language'' was to encompass all industries and to permit generic pharmaceutical producers to market their products who had made substantial investments in anticipation of the expiration of the unextended patent terms. In other words, the current state of affairs was neither intended nor desired by our trade negotiators.

Nevertheless, current patent holders in the prescription drug industry are the only ones in the country which will benefit from the new URAA patent term but also be exempted from generic competition. It is clear that no one desired or anticipated this situation. We in Congress sought the GATT provisions applied universally. But now, according to the FDA and the U.S. Trade Representative, we have inadvertently jeopardized the true intention of GATT and upset the balancing of commercial interests in the free market.

What do I mean by the balance of commercial interests? The FDA found that the law as it stands threatens to upset the balance between the commercial interests of brandname companies and generic companies manifested in the Hatch-Waxman amendments. In response, the patent and Trademark Office [PTO] has taken a position on this issue. The PTO ruled on June 7 that those drugs which had previously received a patent extension under the Hatch-Waxman amendments could not receive the GATT patent extension. In spite of the PTO ruling, a small handful of manufacturers—including those of the blockbuster drugs Zantac® and Capoten®—are still poised to receive an unwarranted multibillion dollar windfall.

This is why I urge my colleagues to support the Consumer Access to Prescription Drugs Act. Not only is it the solution to an absurd and unwarranted problem, it will save large health care purchasers and individual consumers alike valuable resources. By some estimates, the Consumer Access to Prescription Drugs Act would save more than $1.8 billion in health care dollars. The elderly would save $517 million out of their pockets. The Federal Government would save $117 million while the States would save $88 million.

The act will also ensure that a simple mistake in legislative drafting does not disrupt the multimillion dollar investments, business plans and employment of generic drug companies who have planned all along to comply with the GATT treaty—but have been needlessly delayed from providing over-cost products to consumers by a legal loophole.

Most importantly, if we do not act, American consumers will pay unnecessarily high drug prices. At the same time, the Federal Government and the States will pay more for prescription drugs for older Americans, veterans, low-income families and children, and the active-duty military. Out of an annual $940 million prescription drug budget, the Department of Veterans Affairs has estimated that they will pay $211 million too much in the next 3 years alone.

That will come out of our taxes. We will be paying more taxes so that a few brandname drug companies can make more profits and block competition in the marketplace. Most important, I think, will be the effect on older Americans, Americans on fixed incomes and Americans without adequate health insurance. They will feel the hurt even more.

Mr. President, as I have said elsewhere, this is a textbook case of a loophole resulting in an unwarranted windfall. No single industry deserves special treatment under GATT, especially at the expense of consumers. I ask unanimous consent that a copy of the bill, a summary of the act's provisions and letters from the FDA, the Secretary of Veterans Affairs, the U.S. Trade Representative and the Generic Drug Equity Coalition be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as ''The Consumer Access to Prescription Drugs Act of 1995''.

SEC. 2. APPROVAL AND MARKETING OF GENERIC DRUGS.

(a) APPROVAL AND APPLICATIONS.—For purposes of acceptance and consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)(2)(A)(vii) (II), (III), or (IV), or section 512(n)(1)(H) (ii), (iii), or (iv), respectively, made in an application submitted prior to June 8, 1995, or in an application submitted on or after that date in which the applicant certifies that substantial investment was made prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(b) RIGHT TO MARKET.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts which—

(1) were commenced or for which a substantial investment was made prior to June 8, 1995; and

(2) became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983).

(c) EQUITABLE REMUNERATION.—For acts described in subsection (b), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983) may be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (a); or

(2) the importation into the United States of an approved drug that is the subject of an application described in subsection (a).

SEC. 3. DEFINITIONS.

(a) ACTS WHICH WERE COMMENCED.—The submission of an application for approval of a drug under section 505(b)(2), 505(j), 507, or 512(n), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(2) and (j), 357, and 360(n)) prior to June 8, 1995, or the subsequent making, using, offering to sell, selling, or importing of the drug which is the subject of the application, shall constitute acts which were commenced prior to June 8, 1995, as that term is used in this Act and in section 154(c)(2) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983). A person who submits such application, and a person who supplied any active ingredient used by such person in such drug, shall be deemed to have performed acts which were commenced prior to June 8, 1995.

(b) SUBSTANTIAL INVESTMENT.—The development of a product formulation and the manufacture of an experimental batch of a drug that becomes the subject of an application, or the initiation of stability or bioequivalency studies, by an applicant referred to in section 505(b)(2), 505(j), or 512(n), or by a manufacturer of a drug referred to in section 507, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(2) and (j), 360b(n), and 357) shall constitute substantial investment, as that term is used in this Act and in section 154(c)(2)(A) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983). A person who supplied any active ingredient used by such applicant in such drug or by such manufacturer in such drug shall be deemed to have made substantial investment by having supplied the active ingredient to such applicant or such manufacturer.

SEC. 4. APPLICABILITY.

(a) APPLICABILITY TO APPROVAL OF APPLICATIONS.—The provisions of this Act shall govern—

(1) the approval or the effective date of approval of applications under section 505(b)(2), 505(j), 507, or 512(n), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b)(2) and (j), 357, and 360b(n)) submitted on or after the date of enactment of this Act; and

(2) the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

(b) APPLICABILITY IN JUDICIAL PROCEEDINGS.—The provisions of this Act shall apply in any action that—

(1) relates to the approval or marketing of a drug or the infringement of a patent; and

(2)(A) is brought in a Federal or State court on or after the date of enactment of this Act; or

(B) is brought in a Federal or State court prior to the date of enactment of this Act and pending on such date.

THE CONSUMER ACCESS TO PRESCRIPTION DRUGS ACT OF 1995—SUMMARY OF PROVISIONS

The Consumer Access to Prescription Drugs Act restores the universal scope of the General Agreements on Trade and Tariffs (GATT) in the United States. It neither amends the GATT implementing legislation, known as the Uruguay Round Agreement Act (URAA), nor alters the GATT treaty in any way. Instead, it ensures that the prescription drug industry is subject to the URAA transitional ''grandfather'' provisions in the same manner as all other American industries.

Despite the intent of both the Congress and the U.S. Trade Representative to apply the URAA transition provisions to all industries, the prescription drug industry was inadvertently excluded from their scope. The unintentional error led the FDA to rule that the agency is prevented from allowing generic drug manufacturers who made a ''substantial investment'' prior to June 8, 1995 from bringing their products onto the market on the pre-GATT dates of patent expiry, as was intended in the URAA.

To correct this problem, this Act explicitly applies the URAA transition provisions to the prescription drug industry. (The URAA transition provisions relate to ''. . . acts which were commenced or for which substantial investment was made before'' June 8, 1995.)

SECTION 1—SHORT TITLE

Short title of the Act is the ''Consumer Access to Prescription Drugs Act of 1995.''

SECTION 2—APPROVAL AND MARKETING OF GENERIC DRUGS

2(a) Approval of Application:

Section 2(a) fulfills the original intent of the URAA by permitting the use of pre-GATT dates of patent expiry in premarket applications to the FDA from the generic drug manufacturers qualifying under the URAA transition provisions.

This provision in no way alters the FDA's authority to review generic drug submissions. Generic manufacturers seeking to market during the period of GATT patent extension must meet the same standards of safety and effectiveness of any other generic company seeking FDA approval.

2(b) Right to Market:

Under the URAA transition provisions, generic manufacturers in all industries meeting the ''substantial investment'' test were protected from the traditional remedies against patent infringement authorized by sections 283, 284 and 285 of the patent code. In passing the URAA, however, Congress neglected to amend section 271(e)(4), which duplicates and provides for these traditional remedies solely in relation to prescription drugs.

Section 2(b) restores the intent of the URAA by withholding the remedies under section 271(e)(4) solely in the case of qualifying generic manufacturers.

2(c) Equitable Remuneration:

The URAA transition provisions require the payment of ''equitable remuneration'' to patent holders by generic manufacturers who have made a ''substantial investment'' and proceed to market on the pre-GATT date of patent expiry.

Prescription drug manufacturers are not permitted to market their products until FDA approval has been granted. Section 2(c) clarifies that ''equitable remuneration'' must be paid upon the marketing of qualifying generic drugs.

SECTION 3—DEFINITIONS

3(a) Acts Which Were Commenced Defined:

Section 3(a) includes the pre-June 8 submission of a generic drug premarket application to the FDA, as well as the subsequent manufacture and sale of the approved generic drug, within the scope of the URAA transition provisions.

3(b) Substantial Investment Defined:

Section 3(b) applies the URAA transition term ''substantial investment'' to the penultimate steps necessary for submissions of a generic drug premarket application to the FDA.

SECTION 4—EFFECTIVE DATE

4(a) Applicability in Proceedings on Applications:

Section 4(a) applies the provisions of this Act to all FDA actions relating to relevant, qualifying generic drug premarket applications.

4(b) Applicability in Judicial Proceedings:

Section 4(b) applies the provisions of this Act to any legal actions which, although unsubstantiated, would negate the intent of the URAA by needlessly delaying the marketing of qualifying generic drugs.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, May 19, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: I am writing with respect to a decision that I understand you are about to make with respect to permitting generic pharmaceutical products to be marketed in a timely manner.

As you know, the Uruguay Round Agreements Act (URAA) provides that the term of patents in the United States will be switched from a 17-years from grant system to a 20-years from filing system. For those patents that have not expired on June 8, 1995, and those applications that are submitted by then and subsequently issued, the applicant will have the option of choosing the longer of 17-years from grant or 20-years from filing. As a result, some existing patents will be extended for up to approximately 20 months.

The URAA also provides that if a person has made substantial investment before June 8, 1995, in preparation of exploiting the technology once the old patent term expires, they will be able to use the patented technology during the extension period but must pay a reasonable royalty to the patent owner for doing so. The URAA exempts them from liability for injunctions, damages and attorney's fees.

However, it appears that the ability of manufacturers of generic pharmaceutical products to take advantage of this system (i.e., get the generic version of a patented drug on the market during the extension period but pay a royalty) is in question given provisions in the Federal Food, Drug and Cosmetic Act (FFDCA). The FFDCA apparently prevents the FDA from granting marketing approval to generic products until the patent on the underlying product expires. Without marketing approval, the generic manufacturer cannot bring its product on the market.

Resolving this difficult conflict has apparently fallen upon your shoulders. As you come to a decision on this matter, I ask that you give full consideration to the intention of the URAA language to permit generic pharmaceutical producers to market their products who had made substantial investments in anticipation the expiration of the unextended patent term.

Sincerely,

MICHAEL KANTOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOOD AND DRUG ADMINISTRATION,
Rockville MD, May 25, 1995.

III. CONCLUSION

The 1984 Waxman-Hatch Amendments to the Federal Food, Drug, and Cosmetic Act represent a careful balance between the policies of fostering the availability of generic drugs and of providing sufficient incentives for research on breakthrough drugs. This landmark compromise between the interests of the generic drug companies and the pioneer companies was intended to grant a one-time patent term extension in exchange for the prompt availability of generic drug products. There is certainly a strong argument to be made that such a compromise should not be upset without hearings and careful deliberation as to the impact on the twin interests served by the Waxman-Hatch Amendments.

Here there were neither hearings nor a single word of debate on the floor of the House or Senate on the impact of the URAA on the 1984 Waxman-Hatch Amendments. Nor do the committee reports indicate that Congress understood that the URAA would both grant a patent term extension for certain pioneer products and block FDA from approving generic versions of those drugs until the extended patent terms have expired. Nonetheless, the language of the URAA directs that result.

Accordingly, for the reasons stated above, FDA grants your citizen petition in part and denies your citizen petition in part. FDA has determined that the URAA-extended patent term expiration dates will be the governing patent expiration dates with respect to NDA submissions and FDA publication of patent information on listed drugs and their uses; however, FDA will not publish the URAA-extended patent expiration dates until after they become effective on June 8, 1995. ANDA's and 505(b)(2) applications pending before the agency on June 8, 1995, must be amended to respond to the URAA-extended patent expiration dates, if information on the new expiration dates is submitted to the agency in a timely manner. ANDA's and 505(b)(2) applications submitted after June 8, 1995, similarly must provide patent certifications with respect to the URAA-extended patent expiration dates. After June 8, 1995, FDA will not approve any application that does not contain a correct certification with respect to a URAA-extended patent expiration date that was submitted in a timely manner to the agency. Finally, FDA cannot require that an applicant submit a paragraph IV certification as to a certain patent. The agency expects that an ANDA or 505(b)(2) applicant that wishes to market a generic version of a drug prior to the expiration of a URAA-extended patent, for which information was timely submitted to FDA, will file

a paragraph IV certification with respect to that patent.

Sincerely yours,

WILLIAM B. SCHULTZ,
Deputy Commissioner for Policy.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, August 8, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: I am writing in response to your inquiry regarding the potential effect of the Global Agreement on Tariffs and Trade (GATT) treaty and the resulting Uruguay Round Agreements Act (URAA) on the cost of prescription drugs purchased by the Veterans Health Administration (VHA).

VHA shares your concern about the cost impact of the agreement. As you know, VHA expends $940 million on pharmaceuticals annually. VHA now anticipates that the cost of drugs affected by URAA will remain high in light of the lack of generic competition. The total cost impact of the URAA provisions in terms of increased expenditures for VHA has been estimated to be $3.4 million in FY 95, $89.7 million in FY 96, and $117.9 million in FY 97.

For estimating purposes, VHA calculations were based on a three-year extension of the prior patent expiration date. A copy of VHA's analysis is enclosed for your information. New patent expiration dates will be published by FDA in the monthly supplements to ''Approved Drug Products with Therapeutic Equivalence Evaluations'' (the Orange Book). As that information becomes available, we will update our estimates.

Thank you for your interest in the health care provided to veterans.

Sincerely yours,

JESSE BROWN.

GENERIC DRUG EQUITY COALITION,
Washington, DC, August 8, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: Consumers will pay higher prices for the popular high blood pressure medicine Capoten/Capozide beginning today because of a special interest loophole in the GATT legislation.

The empty pill bottle we are delivering to your office today symbolizes the problem facing consumers because of the absence of lower-priced generic drugs.

Capoten/Capozide is the first of a dozen drugs that will be affected by the special interest loophole in the GATT legislation. Generic substitutes for these drugs will be kept off the market for as long as 20 months. In 1994, almost 15 million prescriptions were written for Capoten/Capozide at an average wholesale price of $56.29.

The Generic Drug Equity Coalition (GDEC) estimates that the delay will cost consumers hundreds of thousands of dollars each and every day that the generic substitutes for Capoten/Capozide and other drugs are kept off the market and almost $2 billion overall for the twelve affected drugs.

The GATT legislation extends patents on U.S. products from 17 to 20 years. The legislation also includes transition rules for generic products that were ready to go to market under the old 17-year patent term. However, the Food and Drug Administration can not apply the transition rules to generic drugs.

GDEC is a coalition of consumer, senior, health care and industry groups. We urge you to pass legislation that would grant FDA the authority to allow generic drugs to go to market as had been intended in the GATT transition rules.

Sincerely,

JIM FIRMAN
President and CEO,
National Council on the Aging.

MEMBERS OF THE GENERIC DRUG EQUITY COALITION

National Council on the Aging.
Gray Panthers.
National Consumers League.
United Seniors Health Cooperative.
U.S. PIRG.
American College of Nurse Midwives.
Paraquad.
National Pharmaceutical Alliance, Manufacturers Division.
Consumers for Quality Care.
Novopharm.
Geneva Pharmaceuticals.
MOVA Laboratories.
People's Medical Society.
National Association of Pharmaceutical Manufacturers.
AIDS Action Council.
Royce Laboratories.
Public Citizen.
National Women's Health Network.
Citizen Advocacy Center.
United Homeowners Association.
Center For Health Care Rights.
Mylan.
National Council of Senior Citizens.
National Black Women's Health Project.
Center for Health Care Rights.
National Committee to Preserve Social Security and Medicare.
Generic Pharmaceutical Industry Association.

By Mr. KERRY (for himself, Mr. PELL, and Mr. INOUYE):

S. 1192. A bill to promote marine aquaculture research and development and the development of an environmentally sound marine aquaculture industry; to the Committee on Commerce, Science, and Transportation.

THE MARINE AQUACULTURE ACT OF 1995

• Mr. KERRY. Mr. President, today, with Senators PELL and INOUYE, I introduce the Marine Aquaculture Act of 1995, a bill of great interest to me both in my role as ranking member of the Commerce Committee's Oceans and Fisheries Subcommittee, and as a Senator from a State with a significant interest in the development of an environmentally sound marine aquaculture industry. The primary purpose of this bill is to promote marine aquaculture research and the development of an environmentally sound marine aquaculture industry in the United States.

The development of a marine aquaculture industry is also of great interest to my colleagues from Rhode Island and Hawaii, and I thank them for their cosponsorship. Indeed, most coastal States should have an interest in the growth of an economically and environmentally sound marine aquaculture industry for a number of reasons. First, in a time when many domestic fisheries are increasingly overexploited and management measures become ever more restrictive, marine aquaculture can provide alternative or additional employment opportunities for displaced fishermen and other entrepreneurs. Second, marine aquaculture could play a critical role in enhancing and restoring depleted fish stocks. Third, investment in marine aquaculture research and development activities can stimulate local and regional economies providing benefits reaching far beyond the original investment. Fourth, by providing high quality fish and seafood products for domestic consumption and export, a strong marine aquaculture industry can help reduce the multibillion dollar U.S. fisheries trade deficit.

The United States stands poised to tap into an ever-expanding global market for marine aquaculture products. The United Nations estimates that in the year 2010 an additional 19 million tons of fish protein will be needed annually to maintain consumption at current levels, assuming present population growth. Global harvests of fish continue to decline from their 1989 peak of 100 million tons. About 70 percent of the world's marine fish stocks are classified as fully exploited, overexploited, or recovering. Clearly, harvesting of wild fish and shellfish stocks will not be able to meet this shortfall. Therefore, more and more people are looking to aquaculture to make up this deficit.

In response, the marine aquaculture industry in many countries has grown rapidly, often heavily subsidized by foreign governments. In 1992, China was the leading aquaculture producer with 8.6 million metric tons, nearly 50 percent of the total world aquaculture production. The United States was a distant fifth, with only 400,000 metric tons, less than 4 percent of the world's acquaculture production. Worldwide, coastal, and marine acquaculture comprise approximately 40 percent of total aquaculture production. Many of these fish and seafood products are aggressively marketed in the United States. We have a significant opportunity to develop a globally competitive domestic marine aquaculture industry to meet future fish and seafood demand. The Marine Aquaculture Act provides the support necessary to make the best of this opportunity.

There is also a need for a bill that addresses the unique requirements of aquaculture development in the marine and coastal environment. Much of the private aquaculture industry has invested in and developed land-based aquaculture facilities on privately owned land. The coastal zone and marine waters of the United States, however, are not subject to private ownership and support a variety of public trust uses, including navigation, fishing, recreation, and national defense. Private investment in marine aquaculture is imperative, but must proceed without posing unreasonable constraints or other public trust uses of marine and coastal waters.

A recent National Research Council study concludes that constraints on the economic success of the marine acquaculture industry include: First, public concerns about a broad range of

environmental, ecological, and aesthetic issues; and, second, conflicts with other uses of coastal and marine areas. The report also concludes that the current confusing system of Federal and State laws are regulations impedes growth of the marine aquaculture industry, and that additional scientific, technological and engineering research is necessary to ensure more cost-effective and environmentally sound operations. The Marine Aquaculture Act clarifies the patchwork of regulatory authorities and makes funding more readily available for research and development.

The Department of Commerce, which has primary management authority for marine resource conservation and protection of the marine environment, and which through the National Marine Fisheries Service [NMFS] and Sea Grant has long been engaged in aquaculture research and development, is best equipped to coordinate and manage the development of an environmentally sound aquaculture industry in marine and coast waters.

Utilizing Department of Commerce expertise, the bill would, first, clear up the regulatory maze by making the Department of Commerce the one-stop-shop for permits to own, construct, or operate an offshore marine aquaculture facility in Federal waters; second create a coastal and marine aquaculture research and development program under the National Sea Grant College Program Act; third, increase financial assistance for marine aquaculture ventures by making existing financial assistance programs for fishermen available for the first time to marine aquaculture development; fourth, ensure protection of the marine environment by requiring the Secretary of Commerce to establish environmental standards for offshore marine aquaculture facilities and, in consultation with other appropriate Federal and State agencies, to establish model environmental guidelines for marine aquaculture facilities within State waters.

In developing a marine aquaculture industry, we must also realize that the environmental problems facing marine aquaculture facilities are unique and potentially more difficult than those of land-based facilities. This bill addresses the need for environmental safeguards and would provide for the establishment of standards to minimize adverse impacts on the marine environment of offshore marine aquaculture facilities. These standards would include safeguards to, first, protect wild fish stocks from genetic contamination; second, prevent or minimize ecological or economic harm to marine ecosystems from introduction of nonindigenous marine species; third, prevent or minimize transmission of disease to wild stocks; fourth, maintain applicable Federal water quality standards; and fifth, ensure that efforts to control predation on cultivated stocks are environmentally and ecologically sound. Addressing environmental concerns associated with marine aquaculture activities is necessary to enhance the prospects of developing an economically—and environmen- tally—sustainable industry.

As an additional barrier to developing this industry, many of the traditional forms of financial assistance to fishermen through Department of Commerce programs have not been as widely available for the development of marine aquaculture facilities because of funding limitations and restrictions in authorizing legislation. To address that problem, The Marine Aquaculture Act restructurers existing financial assistance programs available to fishermen, and promotes research and development in marine aquaculture and other disciplines related to the success of such ventures.

I am aware that my colleague, Senator AKAKA, has introduced a general aquaculture bill. I want to emphasize that the Marine Aquaculture Act deals solely with marine aquaculture and is intended to complement rather than compete with or displace Senator AKAKA's bill. I look forward to working with Senator AKAKA and all other Senators who have interest in this subject to develop a comprehensive program to promote aquaculture research and development on both private and public lands. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Marine Aquaculture Act of 1995''.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) The annual demand for seafood products is expected to increase by 350 million pounds by the year 2000 as a result of population growth alone. This demand will be satisfied by a combination of United States harvests, fresh water and marine aquaculture, and imports.

(2) The marine fishery resources of the United States coastal zone, territorial sea, and exclusive economic zone are renewable, but finite. Sound fishery management programs cannot guarantee that the amount of marine fishery products available to the Nation from United States waters will meet consumer demand without supplementation from marine aquaculture.

(3) Worldwide there has been a major increase in marine aquaculture and many of these products have been aggressively marketed in the United States. Many of these programs are also heavily subsidized by foreign governments.

(4) In some foreign nations marine aquaculture has not been adequately controlled and, as a result, there have been undesirable changes to the marine ecosystem which have contributed to production failures from both artificial and natural stocks of fish.

(5) Within the United States private industry has primarily invested in and developed land-based aquaculture facilities, in part because these facilities are located on privately owned land, and in part because the potential environmental problems associated with these facilities are generally easier to control than those associated with marine facilities. Land-based facilities have also benefited from some of the traditional forms of economic assistance provided to farmers under programs administered by the Department of Agriculture.

(6) Private industry has not taken an equivalent initiative to invest in and develop marine aquaculture facilities within the United States, in part, because our marine waters are not susceptible to private ownership and because our marine waters also support other public trust uses, including navigation, fishing, recreation, and national defense. Additionally, marine aquaculture facilities present several environmental challenges requiring specialized scientific research and regulatory programs. Moreover, the traditional forms of economic assistance provided to fishermen under programs administered by the Department of Commerce have not been as widely available to marine aquaculture facilities because of restrictions in authorizing legislation and funding limitations.

(7) Further, incorporating environmental concerns in the development of marine aquaculture will enhance the prospects of an economically and environmentally sustainable industry.

(8) There exist within the Department of Commerce a number of agencies and programs essential to stimulate the private development of marine aquaculture facilities, rebuild depleted fishery resources and protect the marine ecosystem. Among these are programs of the National Marine Fisheries Service, the National Sea Grant College Program, the National Ocean Service, the National Institute of Standards and Technology, the Economic Development Administration, the Minority Business Development Administration, and the International Trade Administration.

(b) POLICY.—It is the policy of the United States—

(1) to encourage private enterprise to invest in and to develop new employment opportunities in marine aquaculture facilities by restructuring existing financial assistance programs and by safeguarding investments in marine aquaculture facilities;

(2) to promote research and development in marine aquaculture technology, marine biology, marine ecology, ocean engineering, economics, law, public policy and other disciplines that will contribute to the commercial success of new marine aquaculture facilities while safeguarding the marine ecosystem; and

(3) to ensure that the placement and operation of any new marine aquaculture facility within a State coastal zone, the territorial sea, or the United States exclusive economic zone, is economically and environmentally sound and does not pose unreasonable contraints on other public trust uses of marine waters, such as navigation, fishing, recreation, and national defense.

SEC. 3. DEFINITIONS.—

For the purposes of this Act—

(1) DIRECTOR.—The term ''Director'' means the Director of the National Sea Grant College Program.

(2) OFFSHORE MARINE AQUACULTURE FACILITY.—

(A) The term ''offshore marine aquaculture facility'' means any facility which is located in whole or in part in the United States exclusive economic zone, the purpose of which is to raise, breed, grow, or hold in a living state any marine or estuarine organism.

(B) Any vessel or other floating craft that forms all or part of an offshore marine aquaculture facility, or any vessel or other floating craft that discharges any material into an offshore marine aquaculture facility, shall not be deemed to be a ''vessel or other floating craft'' under section 502(12)(B) of the Clean Water Act (33 U.S.C. 1362 et al.). Any discharge of material directly into the waters of the facility or from the facility into the surrounding waters shall be considered a point source subject to that Act.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 4. MARINE AQUACULTURE RESEARCH AND DEVELOPMENT PROGRAM.

The National Sea Grant College Program Act (33 U.S.C. 1121 et seq.) is amended by inserting after section 206 the following:

''MARINE AQUACULTURE RESEARCH AND DEVELOPMENT PROGRAM

''SEC. 206A. (a) COASTAL AND MARINE AQUACULTURE RESEARCH AND DEVELOPMENT PROGRAM.—The National Sea Grant College Program provided for under section 204 shall include a national marine aquaculture research and development program under which the Secretary, acting through the Director, shall make grants and enter into contracts in accordance with this section, and engage in other activities authorized under this Act, to further research, development, education and technology transfer in coastal and marine aquaculture and accelerate the development and growth of a sustainable marine aquaculture industry.

''(b) PROGRAM SCOPE.—The marine aquaculture research and development program shall include research, development, education and technology transfer programs that address, but are not limited to, the following:

''(1) Fundamental biological knowledge needed for domesticating candidate species;

''(2) Environmentally safe technologies, methods and systems for culturing marine species in the coastal environment, encouraging sustainable aquaculture practices, and remediating environmental problems;

''(3) Aquaculture technologies that are compatible with other uses of the sea;

''(4) Application of marine biotechnology to marine aquaculture;

''(5) Methods for addressing and resolving conflicts between marine aquaculture and other competing users of the marine environment;

''(6) Comparative studies of State practices regarding the regulation and promotion of marine aquaculture so as to identify and resolve interstate conflicts and issues;

''(7) Education programs to foster understanding and awareness of the environmental and policy implications of aquaculture and marine aquaculture development, including the role of aquaculture in meeting consumer demand for seafood, and the role of aquaculture in rebuilding depleted fish stocks; and

''(8) Development of pilot projects for offshore aquaculture facilities.

''(c) SEA GRANT MARINE ADVISORY SERVICES.—The National Sea Grant College Program shall maintain, with the Marine Advisory Service, the capability to transfer relevant technologies and information to the marine aquaculture industry. Particularly emphasis shall be given to the matters referred to in subsection (b)(1) through (8).

''(d) ADMINISTRATION.—In carrying out the marine aquaculture research and development program, the Director shall—

''(1) coordinate and administer the relevant activities of the Sea Grant College and any advisory committee and review panel established under subsection (f);

''(2) consult with the directors of State Sea Grant programs and other organizations with interests in aquaculture to identify program priorities and needs and, to the extent possible, undertake collaborative efforts, and use this information to identify priorities for marine aquaculture research and planning;

''(3) provide general oversight to ensure that the marine aquaculture research and development program produces the highest quality research, education and technology transfer and leads to opportunities for business development and jobs creation.

''(e) GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—The Director, subject to the availability of appropriations, shall award grants and contracts in accordance with procedures, requirements, and restrictions under Section 205 (c) and (d) for aquaculture research, education, technology transfer, and advisory proposals based on a competitive review of—

''(A) their respective scientific, technical, and educational merits; and

''(B) their likelihood of producing information and technology which lead to the growth and development of a sustainable marine aquaculture industry.

''(2) FUNDING.—Grants made and contracts entered into under this section shall be funded with amounts available from appropriations made pursuant to the authorization provided for under section 212(c), except that if the project under a grant or contract was considered and approved, in whole or in part, under grant or contract authority provided for under section 205(a) or (b) or Section 3 of the Sea Grant Program Improvement Act of 1976, the grant or contract shall be funded from amounts available to carry out that section.

''(f) MARINE AQUACULTURE ADVISORY AND REVIEW PANELS.—

''(1) ESTABLISHMENT.—The Director may establish such advisory committees and review panels as necessary to carry out this section, (or utilize any such existing committee that satisfies the requirements of this subsection).

''(2) MEMBERSHIP.—Members of advisory committees and review panels should be selected to have the professional expertise necessary to review grants received, and in general, should include representatives of relevant disciplines and professions such as fisheries scientists, environmental scientists, and representatives of the marine aquaculture and capture fishing industries.

''(3) ACCESS TO EVALUATIONS OF GRANTS AND CONTRACTS.—The Director shall provide to each advisory committee and review panel established under this subsection copies of appropriate grant and contract application evaluations prepared by directors of Sea Grant Colleges under Section (e)(2)(A).

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) GRANTS AND CONTRACTS.—There is authorized to be appropriated to carry out this section (other than for administration)—

''(A) $5,000,000 for each of fiscal years 1995 and 1996; and

''(B) $7,000,000 for each of fiscal years 1997 and 1998.

''(2) ADMINISTRATION.—There is authorized to be appropriated for the administration of this section—

''(A) $100,000 for each of fiscal years 1995 and 1996; and

''(B) $120,000 for each of fiscal years 1997 and 1998.''.

SEC. 5. AQUACULTURE IN THE COASTAL ZONE.

The Coastal Zone Management Act of 1972 is amended—

(1) by adding at the end of section 306A(b) (16 U.S.C. 1455a(b)) the following:

''(4) The development of a coordinated process among State agencies and between the State and Federal Government, to regulate and issue permits for aquaculture and marine aquaculture facilities in the coastal zone.''; and

(2) by adding at the end of section 309(a) 16 U.S.C. 1456b(a)) the following:

''(9) Adoption of procedures and policies to facilitate and evaluate the siting of public and private marine aquaculture facilities in the coastal zone which will assist States in formulating, administering, and implementing strategic plans for marine aquaculture.''.

SEC. 6. OFFSHORE MARINE AQUACULTURE PERMITTING.

(a) OWNERSHIP, CONSTRUCTION, AND OPERATION OF OFFSHORE MARINE AQUACULTURE FACILITIES.—Notwithstanding subsection (n) of this section, no person may own, construct, or operate an offshore marine aquaculture facility except as authorized by a permit issued under this section.

(b) PERMIT ISSUANCE AND TERM.—

(1) IN GENERAL.—The Secretary may issue, amend, renew, or transfer in accordance with this section permits which authorize the ownership, construction, or operation of an offshore marine aquaculture facility.

(2) TERM.—The term for a permit under this section shall not exceed 10 years and may be renewed after such time.

(3) OWNERSHIP.—Whereas a facility's physical structure, the organisms stocked therein, and any business interests in an offshore marine aquaculture facility can be privately owned by the permittee, the area of ocean used by a marine aquaculture facility remains in public ownership, with only a revocable use permit being granted to the permittee.

(c) PERMIT PREREQUISITES.—The Secretary may not issue, amend, renew, or transfer a permit to a person under this section unless—

(1)(A) each of the officials referred to in subsection (e)(1) has certified to the Secretary that the activities to be conducted under the permit would comply with laws administered by the official; or

(B) the permit establishes the conditions transmitted under subsection (e)(3)(A) by each of those officials that does not make that certification and each of the remainder of those officials makes that certification;

(2) The Secretary determines that—

(A) construction and operation of a facility under the permit will comply with the environmental standards established by the Secretary under subsection (k) and will not significantly interfere with other public trust uses of the ocean, including recreational and commercial fishing, navigation, conservation, and aesthetic enjoyment;

(B) the site for the facility will not interfere with facilities previously permitted under this section or any other Federal law; and

(C) the person, upon revocation or surrender of the permit, will properly dispose of or remove the facility as directed by the Secretary; and

(3) the person provides the Secretary with a bond or other assurances to pay for all costs associated with removal of the facility.

(d) PUBLIC NOTICE AND COMMENT PERIOD.—

(1) NOTICE.—The Secretary shall publish in the Federal Register—

(A) notice of receipt of each application for a permit under this section; and

(B) notice of issuance of each permit issued, amended, renewed, or transferred under this section.

(2) PUBLIC COMMENT.—The Secretary shall provide a 60 day comment period regarding each application received by the Secretary for the issuance, amendment, renewal, or transfer of a permit under this section.

(e) AGENCY NOTICE AND COMMENT.—

(1) TRANSMISSION OF COPIES OF APPLICATIONS.—Not later than 30 days after receiving

an application for a permit under this section, the Secretary shall forward a copy of this application to—

(A) the Secretary of the agency in which the Coast Guard is located;

(B) the Administrator of the Environmental Protection Agency;

(C) the Secretary of the Interior;

(D) the Chairman of the Regional Fishery Management Council under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) having authority over waters in which would occur the activities for which the permit is sought, or having authority over fish stocks which could be ecologically effected by construction or operation of such facility;

(E) the Secretary of Defense; and

(F) the Governor of each State—

(i) adjacent to the location specified by the permit or which would be ecologically affected by permit activities; and

(ii) which has an approved coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(2) CERTIFICATION OF COMPLIANCE.—Subject to paragraph (4), not later than 90 days after receiving a copy of a permit application transmitted under paragraph (1), the official shall certify to the Secretary whether or not the activities to be conducted under the permit would comply with the laws administered by the official.

(3) TRANSMITTAL OF REASONS FOR NONCOMPLIANCE AND PERMIT CONDITIONS.—If an official certifies under paragraph (1) that activities to be conducted under a permit is sought would not comply with a law—

(A) the official shall transmit to the Secretary the reasons for that noncompliance and any permit conditions that would ensure compliance; and

(B) the Secretary shall establish those conditions in any permit for the activity issued under this subsection.

(4) EXTENSION OF TIME FOR CERTIFICATION.—An official may request, in writing, that the Secretary extend by not more than 30 days the period for making certifications under paragraph (2). The Secretary may grant the extension for good cause shown.

(f) PERMIT REVOCATION OR SURRENDER.—

(1) REVOCATION.—The Secretary may revoke any permit issued under this section if the permittee is found to be in substantial violation of any term of the permit, this section, or any regulation promulgated pursuant to this section.

(2) SURRENDER.—A permittee may surrender a permit under this section to the Secretary at any time, subject to any safeguards or conditions established by the Secretary.

(g) PERMIT RENEWAL AND TRANSFER.—A permit under this section may be renewed or transferred in accordance with the procedures and requirements applicable to the issuance of a new permit. The term of a permit, upon renewal, shall not exceed 10 years.

(h) FEES.—The Secretary may assess permit fees not to exceed the cost of administering the program authorized by this section.

(i) CIVIL PENALTY.—The Secretary may assess a civil penalty of not more than $100,000 for each violation of a permit under this section.

(j) PROMULGATION OF REGULATIONS.—The Secretary shall promulgate regulations as necessary to carry out this section.

(k) ENVIRONMENTAL STANDARDS.—

(1) ESTABLISHMENT.—Within 2 years after the date of enactment of this Act, the Secretary shall issue regulations which establish minimum environmental standards with respect to offshore marine aquaculture facilities. Such standards shall be designed to minimize the potential for adverse impacts on the marine environment from such facilities and shall include—

(A) safeguards to conserve genetic resources, including methods to minimize genetic mixing of cultured stocks with natural marine stocks;

(B) safeguards to prevent or minimize ecological or economic harm to marine ecosystems by intentional or unintentional introductions of nonindigenous marine aquaculture species;

(C) safeguards to prevent or minimize transmission of disease to wild stocks;

(D) safeguards to maintain applicable Federal water quality standards;

(E) safeguards to ensure that any efforts to control predation on cultivated stocks are environmentally and ecologically sound; and

(F) other applicable measures to protect the marine environment.

(2) INCLUSION OF PERMIT TERMS.—The standards established under paragraph (1) shall be treated as part of the terms of each permit issued under this section.

(3) REVIEW.—The Secretary shall periodically review the standards established under paragraph (1) and revise the standards based on significant new information including results of the pilot project.

(l) CUMULATIVE EFFECTS.—The Secretary shall report to Congress 5 years after the enactment of this Act on all permits issued under this Act, including the cumulative effects of all permitted facilities on public trust uses of the ocean.

(m) OFFSHORE MARINE AQUACULTURE PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary in cooperation with other Federal and State agencies, acting through the National Sea Grant College Program, is authorized to conduct, to make grants for, or to contract for, projects to demonstrate sustainable approaches to development, installation, or operation of offshore marine aquaculture facilities. Such projects shall take into consideration any environmental guidelines developed by the Secretary, and shall, to the maximum extent practicable, meet the requirements of permits issued under this section.

(2) TERM.—Any pilot project authorized pursuant to this subsection shall be for a term not to exceed two years, and may be renewed after such time.

(3) PURPOSE.—Such projects shall demonstrate the technological and economic feasibility of various marine aquaculture technologies which will contribute substantially to the development of a sustainable marine aquaculture industry.

(4) ECOSYSTEM SAFEGUARDS.—The Secretary, in selecting projects under this subsection, shall be satisfied that any project authorized will not adversely affect the marine environment, and shall be designed to prevent or minimize ecological or economic harm to marine ecosystems by intentional or unintentional introductions of nonindigenous marine aquaculture species.

(5) CONTENTS OF PUBLIC ANNOUNCEMENTS.—The Secretary shall make a public announcement concerning—

(A) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal agency for any research, demonstration, pilot project, study, or report under this subsection; and

(B) the results, findings, data, or recommendations made or reported as a result of such activities.

(6) TIME.—A public announcement required by paragraph (5)(A) shall be made within 30 days after making a grant or contract, and a public announcement required by paragraph (5)(B) shall be made within 90 days after the receipt of such results.

(7) PUBLICATION OF SUMMARIES OF RESULTS; SUBMISSION TO APPROPRIATE CONGRESSIONAL COMMITTEES.—The Secretary shall publish summaries of the results of activities carried out pursuant to this subsection not later than 90 days after the completion thereof. The Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation copies of all such summaries.

SEC. 7. MODEL ENVIRONMENTAL GUIDELINES.

(a) MODEL ENVIRONMENTAL GUIDELINES.—

(1) Within two years after the date of enactment of this Act, the Secretary in consultation with other appropriate Federal and State agencies, shall develop and establish model environmental guidelines with respect to marine aquaculture facilities located within State waters.

(2) In order to carry out this section, the Secretary shall seek advice from representatives of relevant disciplines and professions such as fisheries scientists, environmental scientists, and representatives of the marine aquaculture and capture fishing industries, and may utilize any Marine Aquaculture Advisory and Review Panels established under section 206A(f) of the National Sea Grant College Program Act.

(3) The Secretary shall provide public notice in the Federal Register and allow for a 90 day comment period before finalizing its model guidelines.

(4) The guidelines should include best management practices to minimize the potential for damage to the marine ecosystem from marine aquaculture facilities, including, but not limited to—

(A) conserving genetic resources, including methods to minimize genetic mixing of cultured stocks with natural marine stocks;

(B) preventing or minimizing ecological or economic harm to marine ecosystems by intentional or unintentional introductions of nonindigenous marine aquaculture species;

(C) maintaining applicable Federal and State water quality standards by marine aquaculture facilities;

(D) minimizing ''visual pollution'' and other interference with public trust uses of the ocean from marine aquaculture facilities; and

(E) ensuring that any efforts to control predation on cultivated stocks are environmentally and ecologically sound.

(5) The Secretary shall also develop a program to promote voluntary compliance by the marine aquaculture industry with the guidelines.

(b) STATE AQUACULTURE MANAGEMENT.—Upon completion of environmental guidelines, the Secretary shall submit the environmental guidelines to State coastal zone management agencies, and other Federal and State agencies with a role in aquaculture, marine aquaculture or other coastal and marine resources. These State agencies shall review the environmental guidelines for marine aquaculture operations and consider incorporating processes where applicable.

SEC. 8. ECONOMIC DEVELOPMENT.

(a) COMPREHENSIVE REPORT.—The Secretary shall review all programs administered by the Department of Commerce through the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, the Economic Development Administration, the Minority Business Development Administration, and the Intenational Trade Administration that pertain to the seafood industry. Within two years after the date of enactment of this Act, the Secretary shall report to Congress how the Department of Commerce programs have been employed to stimulate the development of commercial marine aquaculture facilities within the United States or the exclusive economic zone. The report shall include recommendations for changes in any Federal law or administrative procedure that, in the judgment of the Secretary,

constitutes an unreasonable impediment to the growth of a commercially and environmentally sound marine aquaculture facility.

(b) ECONOMIC ASSISTANCE.—The Secretary shall make the financial assistance programs of the Department of Commerce fully available to qualified applicants seeking to construct marine aquaculture facilities in a State coastal zone or the U.S. exclusive economic zone. The programs shall include, but not be limited to, the Capital Construction Fund Program, the Fisheries Obligation Guarantee Program, the Saltonstall-Kennedy Grant Program, the Marine Fisheries Initiative Grant Program, and the programs of the Economic Development Administration. To the extent such projects are economically sound, the Secretary shall grant priority to applicants from those regions of the United States where marine fishery conservation requirements have led to reduced employment in the commercial or recreational fishing industry.●

By Mr. HARKIN:

S. 1193. A bill to reduce waste and abuse in the Medicare Program; to the Committee on Finance.

THE MEDICARE WASTE AND ABUSE REDUCTION ACT

● Mr. HARKIN. Mr. President, I am introducing today an important piece of legislation regarding Medicare. The Medicare Waste and Abuse Reduction Act of 1995 is the third in a series of bills I have introduced this year to save taxpayers and Medicare beneficiaries billions of dollars lost to waste and abuse in Medicare. All of these measures are the result of extensive hearings I have chaired in the Labor, Health and Human Services Appropriations Subcommittee over the past several years and on recommendations of the General Accounting Office, the inspector general of the Department of Health and Human Service and other private sector medical experts.

The two bills I introduced earlier this year would reduce waste and abuse in Medicare by providing for a greater investment in payment safeguards and requiring Medicare to use state-of-the-art private sector computer equipment to catch abusive and unnecessary Medicare billings. The General Accounting Office has endorsed both approaches in these measures as effective in reducing losses to the Medicare Program. In their May 5, 1995, report to me and to the Budget Committee, the GAO found that taxpayers are losing $2 million a day because of its inept system for detecting billing abuse. They said that we could conservatively save $600 million a year by utilizing the same computer software that most major private insurers already use to detect billing abuse.

The Medicare Waste and Abuse Reduction Act I am introducing today would take a number of additional steps to stop the pillaging of Medicare. First, it would put an end to completely unnecessary and often abusive Medicare payments for a range of items unrelated to providing quality health care to the elderly and disabled. These include: tickets to sporting and other entertainment events, gifts and donations, costs related to team sports, personal use of automobiles, fines and penalties resulting from violations of Federal, State and local laws or regulations, and tuition and fees for spouses and other dependents of medicare providers.

All of these items were identified as being subject to abuse by the HHS inspector general. Some of the bills by providers for these items were completely outrageous and only serve to undermine public confidence not only in Medicare, but in Government in general.

Second, this legislation would require a cost-saving step that I have been advocating for years—competitive bidding for durable medical equipment, medical supplies, oxygen, and other related services. I believe this will significantly lower excessive Medicare payments for many of these items and services. The Veterans Administration and many private businesses already employ competitive bidding and their costs are significantly lower.

Third, it provides the Secretary the ability to target several specific items identified as subjects of abuse in our hearings—scooters, orthotic body jackets, and incontinence supplies. Again, we can significantly reduce the payment amounts and unnecessary utilization of these items.

Finally, this legislation would give the Medicare carriers authority they used to have to reduce payment levels for items they identify as subject to grossly excessive payments.

Mr. President, the budget resolution adopted by the new majority in the Congress calls for unprecedented cuts in Medicare. These cuts go far beyond that necessary to forestall problems with the hospital insurance trust fund. Much of these reductions will go to give huge new tax cuts to the wealthiest of Americans. That is just not fair.

For the savings that do need to be made to shore up the Medicare trust fund, we should first look to eliminating the massive amounts of fraud, waste, and abuse. Accordingly, I would urge the Finance Committee to include in its reconciliation recommendations the provisions of the three bills I have introduced and several others I will introduce shortly after we return in September. I look forward to working with my colleagues on this critically important issue. I will have a good deal more to say about Medicare and opportunities to reduce waste and abuse in the coming days.●

By Mr. AKAKA (for himself and Mr. LOTT):

S. 1194. A bill to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes; to the Committee on Energy and Natural Resources.

THE MINING AND MINERAL POLICY AMENDMENTS ACT OF 1995

Mr. AKAKA. Mr. President, every American schoolchild can recite President Kennedy's famous challenge to reach the Moon before the decade of the 1960's ended. The success of our country's space program has become a source of great national pride. Far less attention has been given to the speech President Kennedy gave that same year in which he challenged Americans to explore the ocean depths.

Well, we have reached the Moon and our spacecraft have explored the solar system. Today, we know more about the surface of planets located millions of miles from Earth than we know about much of the ocean floor, which is the Earth's own basement. We have maps of Venus that are better than the map of our own exclusive economic zone [EEZ].

A recent Time magazine cover story on the mysteries of the deep raised similar concerns about how little we know about the last great unconquered place on Earth. As the article points out:

> More than 100 expeditions have reached Everest, the 29,028-foot pinnacle of the Himalayas; manned voyages to space have become commonplace; and robot probes have ventured to the outer reaches of the solar system. But only now are the deepest parts of the ocean coming within reach.

The U.S. exclusive economic zone covers more than 2.5 billion acres, an area slightly greater than that of the United States. Our EEZ is the largest under any nation's jurisdiction and contains a resource base estimated in the trillions of dollars. It is a vast, new ocean frontier.

Because 85 percent of these waters are in the Pacific, Hawaii will play a central role in EEZ research and development. Unfortunately, our new frontier remains largely unexplored. After 10 years, the United States has performed a detailed reconnaissance of less than 5 percent of our EEZ.

Today Senator LOTT and I have introduced legislation to encourage the investigation of the world's oceans, stimulate our country's scientific and economic growth, and further our Nation's industrial competitiveness.

Our bill would accelerate exploration, research, and assessment of the Nation's marine resources. Under this legislation, the Secretary of the Interior would foster partnerships among industry, government, and academia to explore our exclusive economic zone. These partnerships would act as incubators for the commercialization of the advanced technologies necessary to explore and develop responsibly our marine resources.

The bill responds to a 1992 report by the National Research Council which noted that the systematic exploration of the EEZ will require technologies that are fundamentally different from those used in the initial phase of EEZ reconnaissance. The National Research Council identified a need for new ships, advanced instrumentation, and remotely operated underwater vehicles that can be equipped with multiple

data collecting sensors capable of mapping our EEZ resources with unprecedented speed.

Knowledge of our ocean and its resources has always grown in direct proportion to the tools available for marine exploration. As these tools have evolved and improved, our ability to explore, evaluate, and capitalize on our ocean resources has also advanced. If we want to comprehend fully the potential of our EEZ, the technology of ocean exploration must take another leap forward. The deployment of a new generation of undersea research vehicles with advanced data gathering equipment will be necessary to permit reconnaissance on a scale that begins to match the vastness of the ocean and its seafloor. The potential payoffs associated with the development of these ocean technologies will be very great.

In addition to improving our research capabilities, technology associated with ocean exploration can spawn new opportunities for economic development. We have seen major advances in our ability to survey, map, probe, sample, and monitor the ocean floor during the past decade. With the end of the cold war, the market for these systems is rapidly changing from military to civilian uses.

Advances in unmanned underwater vehicles and imaging systems are being employed to perform environmental monitoring of sewage outfalls, underwater pipelines, ocean dumping, and industrial and non-point source pollution. The ability of these technologies to facilitate environmental remediation and cleanup may soon follow. These technologies will also have broad application for deploying and repairing communications and electric power cables, or in other areas of scientific research and technology commercialization.

The opportunities for economic development from ocean resources and technologies cannot be taken for granted, however. The United States seriously risks being left behind other nations that are aggressively investing in the commercialization of ocean technologies. According to the Office of Technology Assessment, Japan, the United Kingdom, and France have major institutions devoted to developing ocean technologies. They have extensive private industry support and have government planning mechanisms to clearly define national ocean policies.

In an increasingly competitive world, countries which lead in the rapid development, commercialization, and application of new technologies will enjoy greater economic growth, higher employment, and better living standards. Nowhere will this principle have greater significance than in the field of ocean resources. Given the magnitude of potential economic opportunity, the United States must strengthen its commitment to ocean R&D.

We need only look to the space program for an appreciation of the economic opportunities generated from technology development. In the past 30 years, the U.S. space program has been the basis for more than 30,000 secondary products—better known as spinoffs, in health and medicine, food and agriculture, energy, the environment, recreation, and construction.

Some of the research has been adapted for use in monitoring and diagnosing illnesses. Devices such as electroencephalographs [EEGs], electrocardiograms [EKGs], rechargeable pacemakers, and medical scanners were developed from equipment built for the space program.

Solar energy, which was pioneered for the space program, has found wide use in heating, cooling, and the generation of electricity. The heat shield developed for the Apollo mission is now providing energy savings as insulation for homes and office buildings.

Remote sensing imagery developed for satellite surveys of the Earth is used by land managers today for long-term management and conservation of our natural resources.

Although estimates vary, applications in industry were found to contribute $22 billion toward the sale of new or improved products and nearly $316 million in savings. Rewards even greater than that derived from the space program may be realized from ocean research.

A commitment to ocean research and assessment embodied in this legislation can create new job opportunities, strengthen our scientific and industrial competitiveness, and produce economic benefits that far exceed the dollars invested.

I ask unanimous consent that a copy of the Time article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time magazine, Aug. 14, 1995]

MYSTERIES OF THE DEEP—THE LAST FRONTIER

(By Michael D. Lemonick)

Sometime this fall, if all goes well, a revolutionary new undersea vessel will be lowered gently into the waters of Monterey Bay for its maiden voyage. Named *Deep Flight I*, the 14-ft-long, 2,900-lb vehicle is shaped like a chubby, winged torpedo but flies like an underwater bird. Compared with the hard-to-maneuver submersibles that now haul deep-sea explorers sluggishly around the oceans, *Deep Flight* is an aquatic F–16 fighter. It can perform barrel rolls, race a fast-moving pod of whales or leap vertically right out of the sea. With a touch on the controls, a skilled pilot—who lies prone in a body harness, his or her head protruding into the craft's hemispherical glass nose—can skim just below the ocean's surface or plunge thousands of feet below.

But *Deep Flight I* is just a pale prototype of what's to come. Back in their Point Richmond, California, workshop, the craft's designers have already drawn blueprints for its successor. *Deep Flight II*, an industrial strength submersible capable of diving not just a few thousand feet but as far as seven miles straight down, to the Mariana Trench—the aquatic equivalent of Mount Everest or the South Pole or the moon.

More than 35 years after the bathyscaphe *Trieste* took two men, for the first and last time, 35,800 ft. down to the deepest spot in the world—the Mariana Trench's Challenger Deep just off Guam in the western Pacific—undersea adventurers are preparing to go back. Last March a Japanese robot scouted a tiny section of the bottom of the 1,584-mile-long crevasse and sent back the first real-time video images of deepest-sea life. And in laboratories around the world, engineers are hard at work on an armada of sophisticated craft designed to explore—and in some cases exploit—the one great unconquered place on earth: the bottom of the sea.

The irony of 20th century scientists venturing out to explore waters that have been navigated for thousands of years is not lost on oceanographers. More than 100 expeditions have reached Everest, the 29,028-ft. pinnacle of the Himalayas; manned voyages to space have become commonplace; and robot probes have ventured to the outer reaches of the solar system. But only now are the deepest parts of the ocean coming within reach. ''I think there's a perception that we have already explored the sea,'' says marine biologist Sylvia Earle, a former chief scientist at the National Oceanographic and Atmospheric Administration and a co-founder of Deep Ocean Engineering, the San Leandro, California, company where construction of *Deep Flight I* began: ''The reality is we know more about Mars than we know about the oceans.''

That goes not only for the sea's utter-most depths but also for the still mysterious middle waters three or four miles down, and even for the ''shallows'' a few hundred feet deep. For while the push to reach the very bottom of the sea has fired the imagination of some of the world's most daring explorers, it is just the most visible part of a broad international effort to probe the oceans' depths. It's a high-sea adventure fraught with danger, and—because of the expense—with controversy as well.

But the rewards could be enormous: oil and mineral wealth to rival Alaska's North Slope and California's Gold Rush; scientific discoveries that could change our view of how the planet—and the life-forms on it—evolved; natural substances that could yield new medicines and whole new classes of industrial chemicals. Beyond those practical benefits there is the intangible but real satisfaction that comes from exploring earth's last great frontier.

There's a lot to explore. Oceans cover nearly three-quarters of the planet's surface—336 million cu. mi. of water that reaches an average depth of 2.3 miles. The sea's intricate food webs support more life by weight and a greater diversity of animals than any other ecosystem, from sulfur-eating bacteria clustered around deep-sea vents to fish that light up like Times Square billboards to lure their prey. Somewhere below there even lurks the last certified sea monster left from pre-scientific times: the 64-ft.-long squid.

The sea's economic potential is equally enormous. Majestically swirling ocean currents influence much of the world's weather patterns, figuring out how they operate could save trillions of dollars in weather-related disasters. The oceans also have vast reserves of commercially valuable minerals, including nickel, iron, manganese, copper and cobalt. Pharmaceutical and biotechnology companies are already analyzing deep-sea bacteria, fish and marine plants looking for substances that they might someday turn into miracle drugs. Says Bruce Robison of the Monterey Bay Aquarium Research Institute (MBARI) in California: ''I can guarantee you that the discoveries beneficial to mankind will far outweigh those of the space program over the next couple of decades. If we can get to the abyss regularly, there will be immediate payoffs.''

Getting there, though, will force explorers to cope with an environment just as perilous as outer space. Unaided, humans can't dive much more than 10 ft. down—less than one three-thousandth of the way to the very bottom—before increasing pressure starts to build up painfully on the inner ear, sinuses and lungs. Frigid sub-surface water rapidly sucks away body heat. And even the most leathery of lungs can't hold a breath for more than two or three minutes.

For these reasons the modern age of deep-sea exploration had to wait for for two key technological developments: engineer Otis Barton's 1930 invention of the bathysphere—essentially a deep-diving tethered steel ball—and the invention of scuba (short for ''self-contained underwater breathing apparatus'') by Jacques—Yves Cousteau and Emile Gagnan in 1943. Swimmers had been trying to figure out how to get oxygen underwater for thousands of years. Sponge divers in ancient Greece breathed from air-filled kettles; bulky-helmeted diving suits linked by hose to the surface first appeared in the 1800s. But it wasn't until scuba came along that humans, breathing compressed air, were able to move about freely underwater at depths of more than 100 ft.

Even the most experienced scuba divers rarely venture below 150 ft., however, owing to increasingly crushing pressure and the laborious decompression process required to purge the blood of nitrogen (which can form bubbles as a diver returns to the surface and case the excruciating and sometimes fatal condition known as the bends). And pressurized diving suits make it possible for humans to descend only to 1,400 ft.—far short of the deepest reaches of the oceans.

Underwater vehicles date back at least to 1620. But it wasn't until Barton's bathysphere came along that scientists could descend to any respectable depth. The *Bathysphere* eventaully took Barton and zoologist William Beebe to a record 3,028 ft. off Bermuda. But it wasn't at all maneuverable: it could only go straight down and straight back up again. Swiss engineer Auguste Piccard solved the mobility problem with the first true submersible, a dirigible-like vessel called a bathyscaphe, which consisted of a spherical watertight cabin suspended below a buoyant gasoline-filled pontoon. (A submersible is simply a small, mobile undersea vessel used for science.)

The *Trieste*, which took U.S. Navy Lieut. Don Walsh and Piccard's son Jacques into the Challenger Deep, was only the third bathyscaphe ever built, and unlike modern submersibles—which bristle with advanced underwater cameras, grabbers, collection baskets and manipulator arms—it carried nothing but its passengers. Its mission was to test whether humans could reach the abyss, the first step toward developing a fleet of manned submersibles. ''At the time, people were still flying across the atlantic in prop planes,'' recalls Walsh, now a consultant on underwater technology. ''criticizing the Trieste mission for not carrying cameras and other instruments is like chastising the Wright brothers for not carrying passengers.''

In the wake of *Trieste*'s successful dive, the number of submersibles expanded dramatically. The Woods Hole oceanographic Institution's workhorse, the three-person *Alvin* (still in operation), was launched in 1964. And the first robots-on-a-tether—the so-called remotely operated vehicles, or ROVS—WERE DEVELOPED SEVERAL YEARS LATER. THE SOVIET UNION, FRANCE AND JAPAN BEGAN BUILDING THEIR OWN SUBMERSIBLES, EITHER FOR MILITARY OR SCIENTIFIC REASONS, AND FOR THE FIRST TIME SCIENTISTS COULD SYSTEMATICALLY COLLECT ANIMALS, PLANTS, ROCKS AND WATER SAMPLES RATHER THAN STUDY WHATEVER THEY COULD DREDGE UP IN COLLECTION BASKETS LOWERED FROM THE SURFACE.

Thus began a remarkable period of undersea discovery that transformed biology, geology and oceanography. Scientists have started to understand, for example, how year-to-year changes in wind patterns and ocean currents that lead to phenomena like the Pacific's El Niño can not only devastate populations of commercially valuable fish but also trigger dramatic shifts in weather patterns. Oceanic fluctuations over much longer time scales, combined with major currents like the Gulf Stream, may start (and bring to an end) planet-wide climatic changes like the Ice Ages.

Scientists have also learned that far from being a flat, featureless plain, the sea floor is rent and wrinkled with a topography that puts dry land to shame. Not only do the seas hold canyons deep enough to hide the Himalayas, but they are also the setting for what is by far the largest geologic feature on the planet: a single, globe-circling 31,000-mile-long mountain range that snakes its way continuously through the Atlantic, Pacific, Indian and Arctic oceans.

When geologists first visited the mid-ocean range in the late 1970s, they were convinced that it supported the then new theory of plate tectonics. According to this theory, the surface of the earth is not a single, rocky shell but a series of hard ''plates.'' perhaps 50 miles thick and up to thousands of miles across, floating on a bed of partly molten rock. The mid-ocean ridges, geologists argued, were likely locations for planetary crust to be created: the new plate material would be pushed upward by forces from below before it settled back down to form the sea floor.

Rock samples from the Atlantic section of the range—which, when examined closely, proved to be newly formed—provided striking evidence that the theory is correct. But an even more dramatic confirmation came from the Pacific, where black clouds of superheated, mineral-rich water were discovered spewing from chimney-like mounds on the sea bottom—evidence that the rocks below still carried tremendous heat from their relatively recent formation.

These hot gushers, now known as hydrothermal vents, have since been found in many parts of the world, and because they occur at average depths of about 7,300 ft., oceanographers have been able to visit and study a dozen of them. The vents are essentially underwater geysers that work much the same way Old Faithful does. Seawater percolates down through cracks in the crust, getting progressively hotter. It doesn't boil, despite temperatures reaching up 750° F, because it is under terrific pressure. Finally, the hot water gushes back up in murky clouds that cool rapidly, dumping dissolved minerals, including zinc, copper, iron, sulfur compounds and silica, onto the ocean floor. The material hardens into chimneys, known as ''black smokers'' (one, nicknamed Godzilla, towers 148 ft. above the bottom).

The chemistry of the vents has provided answers to questions that have perplexed scientists for years. For example, marine geochemists could never understand why the amount of magnesium in seawater remained relatively constant, even though the element is continually eroding into the oceans from dry land. Now they know that magnesium is completely stripped from seawater as it passes through the hot rock—something all the water in the oceans will do every 10 million years.

While academics think of the vents as fascinating natural chemistry labs, capitalists view them as mini-refineries, bringing valuable metals up from the planet's interior and concentrating them in convenient locations. Oceanographers have long known that parts of the Pacific sea floor at depths between 14,000 ft. and 17,000 ft. are carpeted with so-called manganese nodules, potato-size chunks of manganese mixed with iron, nickel, cobalt and other useful metals. In the 1970s, Howard Hughes used the search for nodules as a cover for building the ship *Glomar Explorer*, which was used to salvage a sunken Soviet sub. Now several mining companies are drawing up plans to do with more up-to-date equipment what Hughes only pretended to do.

If the discovery of the vents was a major surprise, scientists were astronished to learn that at least some of these submerged geysers—whose hot, sulfurous environs bear more than a passing resemblance to hell—are actually bursting with life. Nobody had invited biologists along to study the vents because nobody imagined there would be anything to interest them. But on a dive off the Galapagos in 1977, researchers found the water around a vent teeming with bacteria and surrounded for dozens of feet in all directions with peculiar, 8-in.-long tube-shaped worms, clams the size of dinner plates, mussels and at least one specimen of a strange pink-skinned, blue-eyed fish.

Recalls biologist Holger Jannasch, at Woods Hole in Massachusetts: ''I got a call through the radio operator at Woods Hole from the chief scientist . . . who said he had discovered big clams and tube worms, and I simply didn't believe it. He was a geologist, after all.'' Disbelief was quickly replaced by intense curiosity. What were these animals feeding on in the absence of any detectable food supply? How were they surviving without light? The answer, surprisingly, had been found by a Russian scientist more than 100 years earlier. He had shown that an underwater bacterium, *Beggiatoa*, lived on hydrogen sulfide, a substance that is highly toxic to most forms of life. The bacterium was chemosynthetic—as opposed to photosynthetic—getting its energy from chemicals rather than from the sun.

The bacteria around the vents, in turn, were living inside the mollusks and worms, breaking down other chemicals into usable food—an ecological niche nobody had suspected they could fill. Many biologists now believe that the very first organisms on earth were chemosynthetic as well, suggesting that the vents may well be the best laboratory available for studying how life on the planet actually began.

Do scientists expect even more surprises as they venture farther below the surface? The question is a crucial one, as both scientists and policymakers debate the finances of deep-sea exploration. Most everyone acknowledges that there is some value in studying the oceans. It's expensive, though, and because of generally tight budgets, even the few existing manned submersibles (which in any case are rated only for depths above 20,000 ft.) often have to sit idle. Building more strikes some as a waste of money.

That includes some scientists. Although he has never been to the very deepest trenches, ocean explorer Robert Ballard of Woods Hole, who is best known for discovering the wreck of the *Titanic* in 1985, is convinced that the action lies in the relative shallows. ''I believe that the deep sea has very little to offer,'' he says. ''I've been there. I've spent a career there. I don't see the future there.'' The French have decided not even to bother trying to break the 20.000-ft. barrier- the range of their deepest-diving submersible, the three-person *Nautile*. Says Jean Jarry, director of the Toulon-sur-Mer research center of IFREMER, France's national oceanographic institute: ''We think that's a good depth because it covers 97% of the ocean. To

go beyond that is not very interesting and is very expensive.

But that attitude is far from universal. Biologist Greg Stone, of the New England Aquarium in Boston, compares reaching the deepest abyss with Christopher Columbus' search for the New World. ''Why should we care about the deepest 3% of the oceans, and why do we need to reach it?'' he asks rhetorically. ''For one, we won't know what it holds until we've been there. There will certainly be new creatures. We'll be able to learn where gases from the atmosphere go in the ocean. We'll be able to get closest to where the geological action is. We know very little about the details of these processes. And once we're there, I'm sure studies will open up whole sets of new questions.''

Only the richest countries can afford to explore these questions, of course, and while most expeditions are made up of scientists from many lands, the world's deep-sea powers—the U.S., France, Japan and, until economic troubles all but ended its program, Russia—are always aware of who's ahead in the quest for the bottom. At the moment, it's probably Japan, not least because of the triumphant touchdown in the Challenge Deep last March of its 10.5-ton, $41.5 million ROV called Kaiko. The Japanese got into ocean research well after the French, Americans and Russians. But the country has made up for lost time. Says Brian Taylor, a marine geologist at the University of Hawaii and a sometime visiting scientist at the Japan Marine Science and Technology Center (JAMSTEC): ''The Japanese are on the leading edge.''

The Japanese, to be sure, are always interested in a new market opportunities. But they have a more compelling need to understand the ocean floor: the southern part of the island nation has the bad luck to sit on the meeting place of three tectonic plates. As these plates grind against each other, they generate about one-tenth of the world's annual allotment of earthquakes, including plenty of lethal quakes like the one that killed 5,500 people in Kobe in January and the famous 1923 Tokyo temblor in which more than 142.000 perished.

The desperate need to anticipate future quakes is one reason JAMSTEC built the *Shinkai 6500* submersible, which can go deeper than any other piloted craft in the world. On its very first series of missions in 1991, *Shinkai* found unsuspected deep fissures on the edge of the Pacific plate, which presses in on the island nation from the east. The vessel has also discovered the world's deepest known colony of clams (at a depth of more than 20,000 ft.) and a series of thickly populated hydrothermal vents.

Unlike the French and some Americans, though, the Japanese feel a need to go all the way to the deepest reaches of the ocean. A case in point was *Kaiko* dive to the bottom of the Challenger Deep. Jamstec engineers watched anxiously on a video screen, the robotic craft spent 35 min. at a depth of 35,798 ft.—2 ft. shy of *Trieste*'s 1960 record. But during that brief visit, *Kaiko* saw a sea slug, a worm and a shrimp, proof that even the most inhospitable place on earth is home to a variety of creatures. Next winter *Kaiko* will return to the deep to look for more signs of life.

Japan's latest success adds fuel to yet another debate about deep-sea exploration. Some scientists insist that remote-controlled, robotic craft are no substitute for having humans on the scene. Says Mlari's Robison: ''Whether you're a geologist or a biologist, being able to see with your own eyes is vital. That's a squiffy-sounding rationalization, but it's true.'' There are other advantages too, he notes. ''The human eyes are connected to the best portable computer there is [the brain]. ANd when things go wrong, a person can often fix them faster, more easily and more efficiently than a robot can. Look at the Hubble Space Telescope repair mission.''

But others argue that robots—whether tethered, like *Kaiko* or untethered, like the new generation of autonomous underwater vehicles known as AUVS—can do the job just as well. Not only are they much cheaper to build and run than human-operated submersibles, but they can also work for long periods under the most hazardous of conditions. Moreover, remotely operated vehicles such as *Kaiko* put scientists on the scene, at least in a virtual sense, through video images piped in real time through the fiber-optic cable. Researchers can gather around a monitor and discuss what they are seeing without distractions. ''You're focused,'' says Ballard. ''You're not thinking, 'Is there enough oxygen in here? I've got a headache. I just hit my head. I've got to go to the bathroom.' ''

The cheapest way to explore the ocean floor, however, may be with the free-floating AUVS, which can roam the depths without human intervention for months on end. Although they cannot yet provide real-time pictures, they can stay on the bottom as long as a year, patiently accumulating data. Two American AUVS—a government- and university-funded craft called *Odyssey* and Woods Hole's Autonomous Benthic Explorer—have just completed tests off the coast of Washington and Oregon. Eventually, fleets of these robots could communicate among themselves to provide information in the most efficient way, periodically surfacing to beam their data to researchers on shore.

Most scientists think the ideal solution would be to use a mix of all three types of vehicles. There is no shortage of designs—but many may never be built. Even Japan's JAMSTEC, whose constantly growing research budget is reasonably secure for now, has its limitations. In the event of a severe economic slump, says Takeo Tanaka, a planning official for the agency, ''we may not be able to get funding for new deep-sea probes.'' France has no plans to build more manned submersibles—and in fact may ask support from other European Union countries to help subsidize its own program, turning a national effort into a consortium much like the European Space Agency.

And in the U.S., once the leader in deep-sea research, the future looks bleak. The Federal Government is giving less and less money to civilian scientists, while the military considers mines in shallow waters a much greater threat than Russian submarines. Laments *Trieste* veteran Walsh: ''If I had seen a Russian footprint instead of a fish on the bottom, the program might have gotten more support.''

Even without further budget cuts, oceanographers are being forced to look for private funding to bolster their programs. A fifth of France's present oceanography budget comes from renting out the country's expertise. The *Nautile*, for example, was hired to retrieve artifacts from the *Titanic* in 1987, and last year the Rodederer Champagne company paid IFREMER for an ultimately unsuccessful attempt to find the sunken airplane of French author and aviator Antoine de Saint-Exupéry.

In the U.S., the most innovative new designs in underwater craft are coming from such private companies as Deep Ocean Engineering. Founded by Marine biologist Earle and British engineer Graham Hawkes in 1981 (they married in 1986 but have since divorced), the firm designs and builds undersea-exploration vehicles on commission, mostly for the oil and gas industry, various navies, universities and even film crews. The two *Deep Flight I* vehicles, which Hawkes began with the company but completed independently, were financed by several film and television firms and Scientific Search Project, a marine-archaeology company.

Paradoxically, forcing submersible design into the competitive marketplace may prove to be a boon to underwater research. A new version of *Shinkai 6500* would cost perhaps $100 million and require a new surface ship as well. Says Hawkes, who designed *Deep Flight* and will put it through its initial paces: ''That's so expensive that they'll only build one, which means it could only be in one place at a time. *Deep Flight,* he says, could cut through this impasse. ''If we're successful, it will show that we can access the bottom of the ocean in vehicles costing $5 million. They're so small and light, you can send them anywhere.''

Hawkes' eventual goal is to give away the plans for *Deep Flight I* free to anyone who wants them. When *Deep Flight II* is finished, he hopes, trips to the deepest abyss could become almost routine. Today, the larger craft is still looking for a patron, but Hawkes is undaunted. ''We'll get the funding,'' he says confidently. ''After all, one *Deep Flight* costs less than what you need for an America's Cup campaign—and the payoff is 10 times as rewarding.''

He is probably right. Despite the budget cuts, despite the inhospitable environment, despite the pressing danger, there is little doubt that humans, one way or the other, are headed back to the bottom of the sea. The rewards of exploring the coldest, darkest waters—scientific, economic and psychological—are just too great to pass up. Ultimately, people will go to the abyss for the same reason Sir Edmund Hillary climbed Everest; because it's there.

Mr. LOTT. Mr. President, today I am joining Senator AKAKA in introducing legislation which will continue a valuable marine minerals research program started less than a decade ago. With a relatively small input of Federal seed money, this unique program directs an aggressive and successful applied research effort at two universities. Already, it has delivered concrete accomplishments, as well as produced a cadre of enthusiastic and talented students, who are now trained with practical hands-on experience.

To date, achievements include low-cost, highly effective geophysical, geochemical, and geotechnical systems to survey America's Exclusive Economic Zone. These systems can remotely determine physical and chemical properties on and beneath the sea floor. This information is used by universities, offshore industries, and the government.

I want to mention just three ongoing research projects to illustrate how this academic approach is actually developing new technologies to meet our future economic needs:

First, an acoustical filter system to control dredging turbidity and to process industrial waste;

Second, a geophysical system to identify mineral deposits—even unexploded ordnance or sand for coastline stabilization; and

Third, a geochemical system to use sea floor chemistry for locating important minerals and assessing sediment pollutants.

It goes without saying that these efforts are of great value environmentally, economically, and strategically. Let me translate these efforts into a tangible example—beach replenishment. By making it more cost effective through a system which locates the right type of sand, the Government can fix more coastal communities with less financial resources, thus protecting this delicate environment that millions of Americans enjoy.

Another example is the Navy's ability to find unexploded ordnance in offshore ranges so the ordnance can be removed and the ranges decommissioned, thus making our coastal waters safer. These examples clearly make the point that this unique university-based approach should be continued.

These systems will enable America to access and harvest its vast mineral resources which are hidden at the bottom of the ocean.

These systems will offer solutions for major environmental problems, and not just those associated with the oceans.

These systems, at the same time they expand the technological envelope, will provide new jobs and new prosperity—all within a framework of environmental stewardship and responsibility.

I ask my colleagues to examine the merits of this research and support this exceptional cooperative program which involves universities dealing with applied problems in both marine resources and marine environments.

By Mr. DOMENICI:

S. 1195. A bill to provide for the transfer of certain Department of the Interior land located in Grant County, NM, to St. Vincent DePaul Parish in Silver City, NM, and for other purposes; to the Committee on Energy and Natural Resources.

THE FATHER AULL SITE TRANSFER ACT OF 1995

Mr. DOMENICI. Mr. President, I introduce the Father Aull Site Transfer Act of 1995, which will transfer a parcel of land from the Bureau of Land Management [BLM] to the St. Vincent DePaul Parish in Silver City, NM. This transfer is necessary to allow the parish to rehabilitate the historic structures at the site, and to provide for their future use and protection from destructive vandalism that is currently occurring.

Mr. President, Father Roger Aull was a German Jesuit priest, probably born about 1895. He served as a Catholic chaplain during the First World War, but due to ill health, he moved to the Southwest to take advantage of the dry climate. He first settled in San Lorenzo, near Silver City, where he built a beautiful stone house and chapel, before being asked to leave the property which did not belong to him. The structures at San Lorenzo are now listed on the New Mexico Register of Historic Sites.

After leaving San Lorenzo, he settled on a parcel of land near Central, believing that he had received clear title to the tract. Again he set out to establish a local parish, and built another beautiful monastery out of stone collected from the nearby hillsides. This monastery included a house for machines he invented for treating lung problems, the Halox Therapeutic Generator, along with a beautiful chapel, barns for the animals, and many exquisite grottos and gardens. Unfortunately, it was later discovered that this site was actually on public domain land, and Father Aull's assumption of clear title was again incorrect. The site has become historically significant to the Silver City community, and I ask unanimous consent to include in the RECORD, an article by local historian, Audrey H. Hartshorne, describing in greater detail the history of this man and his contributions to the Silver City area.

In March, 1993, the U.S. Forest Service Office in Silver City contacted Membres Resource Area personnel to report a trespass on BLM land. Apparently, a local man had moved his double-wide mobile home and installed improvements on public land adjacent to the Father Aull monastery. Because this is an isolated tract of the three million acres managed by the Membres Resource Area, no one in the Resource Area was aware of the monastery's existence until the trespass was investigated. The trespass case and the site drew national attention when the man refused to remove his mobile home from public land.

Vandalism, which has been a problem at the site for some time, has increased dramatically over the last few years. The beautiful structure is now being vandalized almost daily. A fire, set by vandals, destroyed the wooden roof, and the rock walls are being dismantled and the rocks carried away. The site has become a party place for local teens and cult worshipers, and new graffiti appears on the structures almost daily. Recently, a suicide was committed on the property. The local sheriff's department has informed the BLM that the calls to respond to disturbances at the site are becoming too frequent, and has asked for the BLM's assistance in this matter.

Unfortunately, there are several circumstances that limit the Bureau's ability to remedy the situation. A locked gate cannot be placed on the road leading into the property because the road is used by an elderly couple in ill health access their private property. Additionally, the site is some 50 miles from the nearest BLM office in Deming, and due to its isolation from other resources managed through this office, cannot receive the needed attention to prevent further problems at the site.

Mr. President, the bill I am introducing today will provide for a solution to this problem, and has been suggested to me by local BLM officials. A local church, the St. Vincent DePaul Parish in Silver City, has also raised concerns with the BLM, but in addition, have offered to provide a solution to the problems occurring at the site. This local church has offered to buy the property, but due to a limited budget, this would not allow them to begin restoring the buildings on the site for some time.

If, however, the property could be obtained by the church without a substantial expenditure, they would be able to begin to restore the buildings almost immediately. Under the proposal that the parish has presented, the area would be cleaned up, the chapel and other structures restored and used as a spiritual retreat and health center. The facilities would not be intended for providing for the homeless; however, no one would be turned away. It would not be a residence for the users, and no medical treatments would be conducted on the site, but would provide people suffering from various debilitating maladies a quiet retreat for reflection and renewal. Finally, the church would provide for a caretaker to live on-site, and it would work with the State Historical Society to restore the structures.

I believe this to be the best way to protect and use this small isolated tract of BLM land. The parish has the resources and people necessary to restore the site and protect the property from further destruction. The community would be involved in the protection of the site that has become so important to many local residents, but that is currently at great risk of continued vandalism.

Mr. President, I ask that the text of the bill be printed in the RECORD, and I urge my colleagues to support this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Father Aull Site Transfer Act of 1995''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the buildings and grounds developed by Father Roger Aull located on public domain land near Silver City, New Mexico, are historically significant to the citizens of the community;

(2) vandalism at the site has become increasingly destructive and frequent in recent years;

(3) because of the isolated location and the distance from other significant resources and agency facilities, the Bureau of Land Management has been unable to devote sufficient resources to restore and protect the site from further damage; and

(4) St. Vincent DePaul Parish in Silver City, New Mexico, has indicated an interest in, and developed a sound proposal for the restoration of, the site, such that the site could be permanently occupied and used by the community.

SEC. 3. CONVEYANCE OF PROPERTY.

As soon as practicable after the date of enactment of this Act, and subject to valid existing rights, the Secretary of the Interior shall convey by patent to St. Vincent

DePaul Parish in Silver City, New Mexico, without consideration, all right, title, and interest of the United States in and to the land (including improvements on the land) consisting of approximately 43.06 acres, located approximately 10 miles east of Silver City, New Mexico, and described as follows: T. 17 S., R. 12 W., Section 30: Lot 13, and Section 31: Lot 27 (as generally depicted on the map dated July 1995).

SEC. 4. RELEASES.

(a) IN GENERAL.—Upon the conveyance of any land or interest in land identified in section 3 to St. Vincent DePaul Parish, St. Vincent DePaul Parish shall assume any liability for any claim relating to the land or interest in the land arising after the date of the conveyance.

(b) NEPA.—The conveyance described in section 3—

(1) is deemed to have no significant impact on the environment; and

(2) shall not be subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 5. MAP.

The map referred to in this Act shall be on file and available for public inspection in—

(1) the State of New Mexico Office of the Bureau of Land Management, Santa Fe, New Mexico; and

(2) the Las Cruces District Office of the Bureau of Land Management, Las Cruces, New Mexico.

FATHER ROGER AULL—SAINT, SINNER, OR SCIENTIST?

(By Audrey H. Hartshorne)

IN THE BEGINNING

There was a German Jesuit Priest, named Roger Aull. (Probably born about 1895.) He had received a good education for those days. He had college courses in medicine, chemistry, iridology, and dietetics. He had lectured at Notre Dame and St. Josephs. He served as a Catholic Chaplain in World War One. While in France he was gassed, which caused him to have abcessed lungs.

After the war he came to New York, trying to get doctors to help him with his respiratory problems. He was told he was a dying man and the best they could suggest was that he go to the Southwest where the climate would, at least, give him some relief during his final days.

He gave away or sold all of his belongings and headed, hobo style, for the southwest. He ended up in San Lorenzo in the 1930's. He had been a large man and was strong enough to work in spite of his breathing problems. He was skilled in trades such as masonry and carpentry. While in the San Lorenzo area he was befriended by a Mexican family named Morales. He built himself a beautiful stone house and a chapel. Some say it was on the property owned by Morales, others say it was actually owned by a Mr. Charles Giraud. He soon added to it with a place for chickens and a pig.

Among the people who helped him haul stones for these buildings were Joe and Francisco Dominguez. They say he was fussy about the stone. He always said they had to be from one certain area, and be a certain size, and be flat on two sides with an oval shape.

ON THE MIMBRES

In 1935 he met a mining engineer named Alex Raymond Morrison, who operated a gold and silver mine some distance to the north. Mr. Morrison for many years had been curious as to why his mining men never suffered from the common cold or other respiratory infections. He felt that the salts prevalent in his mine, which gave off a very peculiar smelling gas, were probably responsible. He finally decided, according to Mr. Caporaso in his book about Father Aull, ''that static electricity in the ground separated or dissolved the components formed by the union of the salt concentrates and the mineral-laden water, automatically generating this gas.'' He dreamt of generating it for medicinal purposes.

Morrison invited Father Aull to visit the mine. The more often he visited, the better Roger's abcessed lungs became. In return Father Aull said Mass for the miners every morning and even helped carry out ore.

During this period (late 1930's) Father Aull visited his mother in Illinois and an acquaintance there showed him a gas generator which the friend was working on to be used for therapeutic inhalation. When Aull returned to Grant County, he and Mr. Morrison began working on and improving the generator and combining it with their theory about how the chlorine gas was formed in the mine. They tested the resulting machine on animals. (Some say it was on dogs with colds, others say the dogs actually had distemper and it cured them.) Then, although Roger's lungs were almost cured, he tested it on himself. It seemed very successful. They christened the machine the ''Halox Therapeutic Generator''. People began coming for treatments. No charge was made, but donations were accepted.

In 1940 Mr. Morrison passed away. At about the same time, the owner of the land he had built on (Morales, or Giraud?) said they objected to all the traffic (and maybe secretly coveted Aull's neat little farm) and ordered him off the land (some say at gun point). Since the land had never actually been transferred into Aull's name, he had no choice but to pack up his machine and his Bible and head off, hobo style, once again.

ON A HILLSIDE IN CENTRAL

Friends came to his rescue. Albert Garrett (also a mining engineer) and his wife Lennie transferred to him official title to a portion of what they thought was their land in Central, New Mexico. This time title to the land was secured in his name, at the Silver City Courthouse.

Roger once again began building, stone-upon-stone to create a beautiful sanctuary for everyone who came to try his machine. He had a large room to house the machines for the treatments, a beautiful church, barns for the animals he loved so much, and many beautiful grottos and gardens, as well as some of the most beautiful scenery anyone could ask for. He still only accepted donations, but if you didn't have any money to donate, you could help with the building to pay your way. He never turned anyone away.

In 1940, a professional golfer named Anthony Caporaso, who had been sent to the southwest with an incurable lung problem came to try the cure. It worked! He became an avid backer of the program. He stayed on and worked on the rock walls and gardens to pay for his cure. In later years he wrote a book about Father Aull.

During this period, with many people coming for the cure, a woman who also had severe arthritis came and was cured of both her breathing problem and the arthritis. Word spread, and suddenly hundreds of people were searching him out to be cured. A company was formed to manufacture the Halox and Father Aull opened clinics in Carlsbad, Del Rio, El Paso, Denver, San Francisco and Tombstone, Arizona. Many doctors began using or recommending his Halox Generator, However, the A.M.A. never would accept it and endorse it. (They refused either because it was dangerous to mess with Chlorine gas or because they didn't stand to make any profit from it . . . . take your choice.)

IN TOMBSTONE

On August 4, 1948 while on a trip to his Clinic in Tombstone, Father Roger Aull suffered a heart attack and died. Most of the clinics closed and the group that had helped with the manufacture of his machines just folded up. Subsequently, Bob Stepp, a trader in Silver City, bought up many of the machines. One machine has been donated to the Silver City Museum.

People who came and were cured, called him a Saint. Some of this was possibly due to his skill in iridology. They were more impressed by his skill of looking into their eyes and telling them what their troubles were, than they were with the machine.

The IRS discovered $25,000 in his estate after his death. They called him a Sinner and confiscated the money.

Since many of the people who came were legitimately cured, perhaps he was a Scientist.

ITS NOT OVER 'TIL ITS OVER

When Reverend Roger Aull died, so did people's faith in the Halox Therapeutic Generator. The Clinics closed. (The Tombstone Clinic stayed open for a while under the direction of a Doctor Paul Zinn.) So strong had been the belief that the Reverend Aull had been personally responsible for the seemingly miraculous cures, that the machines never seemed as effective with him gone.

The Garretts took care of settling most of the property and the business. A Mr. Mrachek had been building the machines in his shop in Central and began to try to get rid of them. Some of the equipment seems to have ended up at the old T and M Dairy in Hanover. Many of the items from the Chapel were given to or taken by some of the local Catholic Churches.

After the Garretts passed away, an investigation of the property deeds revealed that the land Aull built on had actually been BLM property. The Three Brothers Mining Company did patent a claim on it, but this does not give them the surface rights to the buildings. For years the buildings had just sat there deteriorating, hurried along by intermittent vandalism. The roof of the medical room was burned, one wall was torn down to steal the rocks on it, and, in general garbage, etc. has been strewn around. A Mr. Wilguess moved a trailor home on the property and has tried to clean it up and to protect it, but the BLM says that is illegal and he had had to move off.

There seems to have been a renaissance of interest in Father Aull and his beautiful rock buildings and grottos. Perhaps the BLM will be able to restore, and protect the beautiful site. Who knows what another fifty years might bring.

By Mr. CRAIG:

S. 1196. A bill to transfer certain National Forest System lands adjacent to the townsite of Cuprum, ID; to the Committee on Energy and Natural Resources

THE CUPRUM TOWNSITE RELIEF ACT

• Mr. CRAIG. Mr. President, I introduce the Cuprum Townsite Relief Act of 1995.

In 1909, President William Taft accepted payment and granted a tract of land contained within the townsite of Cuprum, ID, to the occupants. Cuprum was a mining community and remains a community to this day. The quarter corner locating the community was established in 1891. A private survey of the town was done in 1899 for the purpose of providing a basis for a townsite

patent. A townsite patent was issued in 1909 that was based on the private survey. A recent Federal survey of the area has discovered inconsistencies between the description contained in the patent and the updated survey. This has called into question the boundaries of several lots within the townsite that now are surveyed as extending into the National Forest System lands adjacent to the townsite.

This legislation will resolve the problem brought on by the incorrect description of the original boundaries granting the land. This legislation will allow the correction of the boundary of the Cuprum Townsite and place the boundary at the location that has been relied upon since the turn of the century. The citizens of Cuprum deserve to have this error corrected by speedy action of the Congress.●

By Mr. MACK (for himself, Mr. FRIST, Mr. D'AMATO, Mr. SHELBY, Mr. Abraham, Mr. SANTORUM, Mr. DEWINE, and Mr. FAIRCLOTH):

S. 1197. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the dissemination to physicians of scientific information about prescription drug therapies and devices, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE COMMUNITY LEGISLATION

● Mr. MACK. Mr. President, today, I am introducing legislation to ensure that physicians and their patients have the best and most current information at their disposal when making medical treatment decisions. I am pleased Senator FRIST has agreed to join me in this effort. His firsthand experience as a distinguished surgeon has been invaluable as we worked to craft this legislation. Also joining us as cosponsors are Senators D'AMATO, SHELBY, ABRAHAM, SANTORUM, DEWINE, and FAIRCLOTH.

When the U.S. Food and Drug Administration [FDA] approves a new prescription drug or medical device, it does so for specified uses. Frequently, however, scientist discover the drug or device is also beneficial in treating other medical conditions. Physicians are free to prescribe prescription drugs and use medical devices for these new, off-label, uses.

However, since 1991, the FDA has prohibited the industry from distributing scientific articles about these important new uses. I have been told that as many as 40 percent of all prescriptions are for an off-label use. Accordingly, one has to question the wisdom of withholding such vital information about new uses.

Our legislation would permit the dissemination of certain information about off-label uses of FDA-approved prescription drugs and medical devices to physicians. It is important to emphasize that our legislation applies only to the dissemination of peer-reviewed articles from medical and scientific journals, textbooks, and similar publications. In so doing, it ensures the objectivity of the information. Furthermore, it would permit the distribution of information which is the subject of a scientific or educational program which is approved by an independent continuing medical education accrediting entity. Finally, the legislation would include peer-reviewed data on a pharmaceutical or device which is recognized under Federal law for purposes of third party coverage or reimbursement, such as Medicare.

Several other safeguards are built in to the legislation. First, our bill requires disclosure that the information being disseminated has not been approved by the Secretary of Health and Human Services, and also that the information is being disseminated at the expense of the drug's sponsor. Second, it requires disclosure of my financial arrangement between the authors of the data and the manufacturer of the subject drug or device.

The FDA's gag rule on the distribution of information about new uses of prescription drugs and medical devices inhibits the ability of a physician and his or her patient to make informed decisions about the patient's course of treatment. No physician, no matter how dedicated he or she might be, can possibly read every scientific journal or attend every medical seminar. This bill will maximize the ability of physicians to gain insight about new uses of approved therapies to treat a patient's illnesses or improve their quality of life.

The American Medical Association, in a letter to the FDA on the subject, stated, ''the dissemination of accurate and unbiased information about off-label uses of approved drugs and medical devices to practicing physicians is essential to the provision of high quality medical care.''

The current policy prohibiting the exchange of scientific data is another example of the Federal Government taking medical decisions out of the hands of physicians and patients and putting them in the hands of Government bureaucrats. In addition, the policy may be a violation of the first amendment to the Constitution.

Mr. President, five members of my family and I have each battled cancer. All but my brother, Michael, survived thanks in part to advances in medical science. I know from personal experience how important it is for physicians to have the data and information they need to make informed choices about a patient's course of treatment. I would hate to think that something more could be done for people like Michael but for the Government's unwarranted limitation on what a physician may be told about new treatments. The Congress of the United States must act now to ensure that physicians have access to the most current medical literature.

We look forward to working with Senator KASSEBAUM and members of the Senate Committee on Labor and Human Resources to ensure swift passage of this commonsense FDA reform legislation. We encourage our Senate colleagues to join us in this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) fostering and protecting the highest possible standards of health care for the American people require—

(A) creative scientific inquiry and information exchanges in the medical sciences and the industries that serve the American people;

(B) dissemination and debate of the results of such inquiry within the medical community; and

(C) rapid development, testing, marketing approval, and accessibility of state-of-the-art health care products, such as drugs, biologics, and medical devices;

(2) traditionally, free-flowing information exchanges between health professionals and the producers of health care products, with respect to potentially beneficial new uses of existing products, have been a means to achieve scientific advances and medical breakthroughs;

(3) such information exchanges have been protected by law, but erroneous interpretation, application, and enforcement of existing law have inhibited and even foreclosed such information exchanges in recent years; and

(4) it is imperative to the health of the American people to enact legislation to clarify the intent of Congress and the existing state of the law to stimulate and encourage such educational and scientific information exchanges among industry and health care practitioners.

SEC. 2. INFORMATION EXCHANGE AMENDMENTS.

Chapter III of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 et seq.) is amended by adding at the end thereof the following new sections:

''SEC. 311. DISSEMINATION OF TREATMENT INFORMATION ON DRUGS AND BIOLOGICAL PRODUCTS.

''(a) DISSEMINATION OF TREATMENT INFORMATION.—

''(1) IN GENERAL.—Notwithstanding sections 301(d), 502(f), 505, and 507 and section 351 of the Public Health Service Act (42 U.S.C. 262), and subject to the requirements of paragraph (2) and subsection (b), a person may disseminate to any person that is a health care practitioner or other provider of health care goods or services, a pharmacy benefit manager, a health maintenance organization or other managed health care organization, or a health care insurer or governmental agency, written information, or an oral or written summary of the written information, concerning—

''(A) a treatment use for an investigational new drug or an investigational biological product approved by the Secretary for such treatment use; or

''(B) a use (whether or not such use is contained in the official labeling) of a new drug (including any antibiotic drug) or a biological product for which an approval of an application filed under section 505(b), 505(j), or 507, or a product license issued under the Public Health Service Act, is in effect.

''(2) REQUIREMENTS.—A person may disseminate information under paragraph (1)(B) only if—

''(A) the information is an unabridged—

''(i) reprint or copy of a peer-reviewed article from a scientific or medical journal that is published by an organization that is independent of the pharmaceutical industry; or

''(ii) chapter, authored by an expert or experts in the disease to which the use relates, from a recognized reference textbook that is published by an organization that is independent of the pharmaceutical industry;

''(B) the text of the information has been approved by a continuing medical education accrediting agency that is independent of the pharmaceutical industry as part of a scientific or medical educational program approved by such agency;

''(C) the information relates to a use that is recognized under Federal law for purposes of third-party coverage or reimbursement, and—

''(i) the text of the information has been approved by an organization referred to in such Federal law; or

''(ii) the information is part of a disease management program or treatment guideline with respect to such use; or

''(D) the information is an accurate and truthful summary of the information described in subparagraph (A), (B), or (C).

''(b) DISCLOSURE STATEMENT.—In order to afford a full and fair evaluation of the information described in subsection (a), a person disseminating the information shall include a statement that discloses—

''(1) if applicable, that the use of a new drug or biological product described in subparagraph (A) or (B) of subsection (a)(1) and the information with respect to the use have not been approved by the Food and Drug Administration;

''(2) if applicable, that the information is being disseminated at the expense of the sponsor of the drug or biological product;

''(3) if applicable, that one or more authors of the information being disseminated are employees of or consultants to the sponsor of the drug or biological product; and

''(4) the official labeling for the drug and biological product, or in the case of a treatment use of an investigational drug or biological product, the investigator brochure and all updates thereof.

''(c) DEFINITION.—As used in this section, the term 'expense' includes financial, in-kind, and other contributions provided for the purpose of disseminating the information described in subsection (a).

''(d) SPECIAL RULE.—In the case of a professional disagreement between the Secretary and other qualified experts with respect to the application of section 502(a), the Secretary may not use section 502 to prohibit the dissemination of information in the types of circumstances and under the conditions set forth in subsections (a) and (b).

''SEC. 312. DISSEMINATION OF INFORMATION ON DEVICES.

''(a) DISSEMINATION OF INFORMATION.—Notwithstanding sections 301, 501(f), 501(i), 502(a), 502(f), and 502(o), or any other provision of law, and subject to subsections (b) and (c), a person may disseminate to any person that is a health care practitioner or other provider of health care goods or services, a pharmacy benefit manager, a health maintenance organization or other managed health care organization, or a health care insurer or governmental agency, written or oral information (including information exchanged at scientific and educational meetings, workshops, or demonstrations) relating to a use, whether or not the use is described in the official labeling, of a device produced by a manufacturer registered pursuant to section 510.

''(b) DISCLOSURE STATEMENTS AND REQUIREMENTS.—

''(1) DISCLOSURE STATEMENTS.—To the extent practicable, the requirement with respect to a statement of disclosure under subsection (b) of section 311 shall apply to the dissemination of written and oral information under this section, except that this paragraph shall not apply to the dissemination of written or oral information with respect to the intended use described in the labeling of a device.

''(2) ADDITIONAL REQUIREMENTS.—A person may disseminate information under subsection (a) only if—

''(A) the information is an unabridged—

''(i) reprint or copy of a peer-reviewed article from a scientific or medical journal that is published by an organization that is independent of the medical device industry; or

''(ii) chapter, authored by an expert or experts in the medical specialty to which the use relates, from a recognized reference textbook that is published by an organization that is independent of the medical device industry;

''(B) the information has been approved by a continuing medical education accrediting agency that is independent of the medical device industry as part of a scientific or medical educational program approved by such agency;

''(C) the information relates to a use that is recognized under Federal law for purposes of third-party reimbursement, and—

''(i) the text of the information has been approved by an organization referred to in such Federal law; or

''(ii) the information is part of a disease management program or treatment guideline with respect to such use; or

''(D) the oral or written information is—

''(i) part of an exchange of information solely among health care practitioners, health care reimbursement officials, and the industry;

''(ii) exchanged for educational or scientific purposes; and

''(iii) presented at continuing medical education programs, seminars, workshops, or demonstrations.

''(3) APPLICABILITY.—The requirements under subsection (a)(1)(A) and (B) of section 311 shall not apply with respect to devices.

''(c) INFORMATION DISSEMINATION NOT EVIDENCE OF INTENDED USE.—Notwithstanding section 502(a), 502(f), 502(o), or any other provision of law, the written or oral dissemination of information relating to a new use of a device, in accordance with this section, shall not be construed by the Secretary as evidence of a new intended use of the device that is different from the intended use of the device set forth on the official labeling of the device. Such dissemination shall not be considered by the Secretary as labeling, adulteration, or misbranding of the device.''.

SEC. 3. PRESERVATION OF CURRENT POLICY.

Nothing in this Act or the amendment made by this Act shall affect the ability of manufacturers to respond fully to unsolicited questions from health care practitioners and other persons about drugs, biological products, or devices.●

● Mr. FRIST. Mr. President, I join my distinguished colleague from Florida, Mr. MACK, in introducing legislation that will further liberate the American people, and specifically the health care community, from excessive, and destructive Government interference. Mr. President, before coming to this body as a citizen legislator, I worked as a heart and lung transplant surgeon, and experienced firsthand the way the Food and Drug Administration prohibits physicians from sharing information that could save their patients' lives. Mr. President, the bill that I'm introducing today will allow the free flow of information in the scientific and medical community about new uses for FDA-approved prescription drugs and devices.

Mr. President, this bill is vitally important for patients and their doctors. As a physician, I can only keep up to date on all treatment options available to my patients, if I have access to information about new research breakthroughs. Time is often of the essence, especially for my patients with terminal or life-threatening illnesses.

But today, the Food and Drug Administration [FDA] prohibits doctors and scientists from working together in this way. Let me explain, Mr. President, how the process is currently working. After the FDA finally approves a new prescription drug or medical device for certain uses, the drug or device is labeled to reflect that it has been found to be safe and efficacious for that use.

I should note, Mr. President, that many times this process takes so long that American citizens and companies are going abroad for safe and lifesaving drugs and devices. But after the drug or device has been approved in the United States, there are many times physicians and scientists discover that this drug or device is also beneficial in treating other medical conditions.

As a physician, I may legally prescribe FDA-approved products for these off-label uses. Yet, even in cases where the patient experiences spectacular results, the FDA prohibits the manufacturer from disseminating medical data about such discoveries.

That is exactly why I am introducing this legislation. To improve the free-flow information to benefit my patients and others. Today, the Federal Government intrudes on the practice of medicine by limiting the dissemination of information on breakthrough treatments for off-label uses of medications.

This sounds very technical, complex, and removed from the basic doctor-patient relationship. However, this has real-life, everyday applications.

I recall a complicated case, where the normal treatment practices did not do the job for one of my patients. He was experiencing recurrent episodes of organ rejection with increasing frequency. My treatment was already unconventional—using repeated treatments with a new immunosuppressive drug [OKT3]. However, the drug company had not approved it for that type of use. Instead, it was used only for treating single episodes of severe rejection. Therefore, my use of the drug was considered off-label.

But that radical drug protocol kept my patient alive until I found something that worked for him. My patient was fully reliant on my knowledge as a physician—on how up to date I was with the latest information. But, today, if I share my findings with the

pharmaceutical company, they are then restricted by the FDA in sharing my success with other physicians.

When Congress returns from the August recess, the Committee on Labor and Human Resources will focus on needed reforms to the Food and Drug Administration. As a member of that committee, I hope to work with Chairman KASSEBAUM to incorporate these provisions to allow the flow of information about off-label uses of FDA-approved products to health care providers. I anticipate that we will be able to address this problem, and make yet another step in freeing the American people from the shackles of an arrogant and dysfunctional Government bureaucracy.●

By Mr. COATS (for himself and Mr. GREGG):

S. 1198. A bill to amend the Federal Credit Reform Act to improve the budget accuracy of accounting for Federal costs associated with student loans, to phase out the Federal Direct Student Loan Program, to make improvements in the Federal Family Education Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

THE STUDENT LOAN PRIVATIZATION ACT

● Mr. COATS. Mr. President, today I am introducing the Student Loan Privatization Act to ensure that Americans will continue to enjoy unfettered access to higher education student aid. For the past 2 years, the Clinton administration has tried to turn the Department of Education into the biggest consumer bank in the country. If the administration succeeds, Americans will have nowhere else to turn but to the largess of the Department of Education when it comes time to finance their college education.

Under the Clinton plan, every single student loan would be approved, disbursed, serviced, and collected by the Department of Education. The administration has even considered calling in the IRS to do the collecting—as if we want the IRS collecting student loans, as well as taxes. The Federal Direct Student Loan Program—which provides college loans to students directly from Uncle Sam, rather than through private sector lenders as in the traditional guaranteed loan program—ranks among the largest Government expansion drives of the Clinton administration. This Grow the Government program would add 500 new bureaucrats to the Department of Education and is a complete contradiction to the will expressed by voters last November. The direct loan program ignores the fact that the private lending industry has improved service to families, improved efficiency, and substantially lowered default rates—all of which saves the taxpayers $1 billion per year.

Mr. President, when the administration asked the last Congress to authorize the direct loan program, we were told it would save $12 billion when compared to the traditional guaranteed loan program. Unfortunately, that savings estimate was produced by ignoring administrative costs and by applying budget loopholes. The fact is, Mr. President, that the Congressional Budget Office reported last month that when the two programs are scored on the same basis, the 7-year savings of the guaranteed loan program amounts to almost 10 times the Direct Loan savings.

The Student Loan Privatization Act will put an end to this expensive nonsense by phasing out the direct loan program, while at the same time enacting improvements to the guaranteed student loan program. It establishes a 4-year timetable to begin decreasing direct loan volume by requiring the Secretary to modify existing participation agreements with institutions that are currently participating in the program.

Mr. President, at a time when Congress is looking for savings to balance the budget, it makes no sense to continue funding a Federal program that costs more money than a better alternative in the private sector. In closing, Mr. President, I would say to my colleagues that if you believe that the Federal Government always acts more efficiently than private business, then you should continue to support the administrations efforts to nationalize student lending. On the other hand, I urge my colleagues who support limited Government and prudent fiscal restraint to cosponsor the Student Loan Privatization Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Student Loan Privatization Act of 1995''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Federal Direct Student Loan Program will result in an increase of at least 500 full-time equivalent employees at the Department of Education and in the hiring of over 15,000 Federal contract employees, assuming full implementation of the program.

(2) The involvement of private sector financial institutions and not-for-profit corporations chartered for purpose of providing or supporting Federal student assistance results in increased efficiency, maintenance of quality of service to students and institutions, and innovation in and the use of modern data processing technology.

(3) The Federal Family Education Loan Program is subject to excessive regulation resulting in burdensome administrative requirements for students, schools, and other program participants, the reduction of which would ease administrative burdens and improve program management.

(4) The program costs of the Federal Direct Student Loan Program are inaccurately reflected under the provisions of the Federal Credit Reform Act as in effect prior to the date of enactment of this Act due to the exclusion of accounting for certain administrative costs associated with the Act.

(5) The budget scoring of Federal student loans under the Federal Credit Reform Act as in effect prior to the date of enactment of this Act led to projections of savings which are highly unlikely to occur in reality for the Federal Direct Student Loan Program.

TITLE I—REFORMS TO IMPROVE THE ACCURACY OF THE FEDERAL CREDIT REFORM ACT

SEC. 101. AMENDMENTS TO THE FEDERAL CREDIT REFORM ACT.

Subparagraph (B) of section 502(5) of the Congressional Budget Act of 1974 is amended to read as follows:

''(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows for the estimated life of the loan:

''(i) Loan disbursements.

''(ii) Repayments of principal.

''(iii) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

''(iv) Direct expenses, including—

''(I) activities related to credit extension, loan origination, loan servicing, management of contractors, other government entities, and program participants;

''(II) collection of delinquent loans; and

''(III) writeoff and closeout of loans.''.

SEC. 102. EFFECTIVE DATE.

The amendment made by section 101 shall apply to all fiscal years beginning on or after October 1, 1995, and to statutory changes made on or after the date of enactment of this Act.

TITLE II—PHASE-OUT OF THE FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 201. PHASE-OUT OF PROGRAM.

Section 453 of the Higher Education Act of 1965 (20 U.S.C. 1087c) (hereafter referred to in this title and in title III as the ''Act'') is amended by adding at the end the following new subsection:

''(f) PHASE-OUT OF PROGRAM.—

''(1) GENERAL AUTHORITY.—The Secretary shall modify or phase-out agreements entered into with institutions of higher education pursuant to section 454(a) in accordance with paragraph (2).

''(2) MODIFICATION OR PHASE-OUT OF AGREEMENTS.—In order to ensure an expeditious and orderly phase-out of the programs authorized under this part, the Secretary shall modify or phase-out agreements entered into pursuant to section 454 with institutions of higher education to achieve the following results:

''(A) For academic year 1995-1996, loans made under this part shall represent not more than 40 percent of new student loan volume for such year.

''(B) For academic year 1996-1997 and all subsequent academic years, no loans shall be made pursuant to this part.

''(3) NEW STUDENT LOAN VOLUME.—For the purposes of this subsection, the term 'new student loan volume' has the same meaning given such term under subsection (a)(4).

''(4) MODIFICATION OF SOFTWARE AND SYSTEMS FOR PHASE-OUT OF DIRECT LOANS.—The Secretary shall not make system modifications or upgrades to software used in support of the program under this part after the date of enactment of this subsection.

''(5) REGULATIONS GOVERNING PHASE-OUT OF DIRECT LOANS.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall promulgate regulations governing the phase-out of the Federal Direct Student Loan Program as provided for in this subsection. Such regulation shall not be

subject to the provisions of the Master Calendar as specified under section 482. The provisions of this subsection shall be implemented notwithstanding the nonpublication of regulations required under this subsection by the Secretary.''.

SEC. 202. DIRECT LOAN VOLUME LIMITS.

Section 453(a) of the Act (20 U.S.C. 1087c(a)) is amended by striking paragraphs (2) and (3).

SEC. 203. ADMINISTRATIVE EXPENSES.

Subsection (a) of section 458 of the Act (20 U.S.C. 1087h(a)) is amended to read as follows:

''(a) IN GENERAL.—Each fiscal year, there shall be available, from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, and for certain expenditures in support of the program authorized under part B, not to exceed (from such funds not otherwise appropriated) $50,000,000 in fiscal year 1996, and $45,000,000 in fiscal year 1997. Beginning in fiscal year 1998, no funds shall be made available under this subsection unless carried over from a prior fiscal year. The total expenditures by the Secretary (from such funds not otherwise appropriated) under this subsection shall not exceed $700,000,000 for fiscal years 1994 through 1998. The Secretary may carry over funds available under this section for a subsequent fiscal year.''.

SEC. 204. REPEAL.

Effective October 1, 1997, part D of title IV of the Higher Education Act, as amended by this title, is repealed.

TITLE III—IMPROVEMENTS TO THE FEDERAL FAMILY EDUCATION LOAN PROGRAM

SEC. 301. RECOVERY OF GUARANTY AGENCY RESERVES.

The last sentence of section 422(a)(2) of the Act (20 U.S.C. 1072(a)(2)) is amended by striking ''Except as provided in section 428(c)(10)(E) or (F), such'' and inserting in lieu thereof ''Such''.

SEC. 302. RESERVE FUNDS.

Section 422(g) of the Act (20 U.S.C. 1072(g)) is amended to read as follows:

''(g) DISPOSITION OF FUNDS RETURNED OR RECOVERED BY THE SECRETARY.—Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the United States Treasury for purposes of reducing the Federal debt.''.

SEC. 303. TERMINATION OF FDSL CONSOLIDATION LOAN AUTHORITY.

(a) PART B AUTHORITY.—Section 428C(b) of the Act (20 U.S.C. 1078–3(b)) is amended by striking paragraph (5).

(b) PART D AUTHORITY.—Section 455 of the Act (20 U.S.C. 1087e) is amended by striking subsection (g).

SEC. 304. CONSOLIDATION UNDER FFELP OF LOANS MADE PURSUANT TO PART D.

Section 428C(a)(4)(B) of the Act (20 U.S.C. 1087–3(a)(4)(B)) is amended by inserting ''part D or'' before ''part E''.

SEC. 305. ACCOUNTABILITY OF FUNDS FOR DIRECT LOAN ADMINISTRATIVE EXPENSES.

Section 458 of the Act (20 U.S.C. 1087h) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c), the following new subsection:

''(d) PROHIBITION ON CERTAIN EXPENDITURES.—Notwithstanding any other provision of law, funds available under this section shall not be used to support public relation activities (by Department of Education employees or pursuant to contracts with the Department) or marketing of institutions to encourage participation in the program authorized under this part.''.

SEC. 306. SALE OF FDSL LOAN PORTFOLIOS.

Part D of title IV of the Act is amended by inserting after section 458 (20 U.S.C. 1087h) the following new section:

''SEC. 459. SALE OF FEDERAL DIRECT STUDENT LOAN PORTFOLIOS.

''(a) AUCTION SALES OF LOAN PORTFOLIOS.—The Secretary shall conduct auctions to sell the outstanding portfolios of loans made pursuant to this part. Such auctions shall consist of the sale of portfolios representative of the overall characteristics of the direct loans held by the Secretary. Auctions shall be held for portfolios of not less than $40,000,000 worth of loans per sale. The first sale of loans shall take place not later than 120 days after the date of enactment of this section, and shall not include Federal guarantees or reinsurance against the contingency of borrower default, death, or disability.

''(b) LOAN TERMS SUBJECT TO PROMISSORY NOTE.—Loans described in subsection (a) shall be subject to the terms and conditions as specified in the borrower promissory note, and shall not be subject to further Federal regulations pursuant to this Act.

''(c) ASSESSMENT OF AUCTION.—The Secretary, subsequent to holding of the auctions under subsection (a), shall prepare a report on the results of such actions. Such report shall include the following:

''(1) The opinion of the Secretary as to whether the results of the auction represent a true reflection of the Federal subsidy costs associated with federally supported student loans.

''(2) An estimate of the reductions in Federal administrative costs achieved through the elimination of future Federal oversight and administrative responsibilities of affected loans as a result of sale to the private sector.

''(d) TRANSMITTAL OF RESULTS TO CONGRESSIONAL BUDGET OFFICE AND OFFICE OF MANAGEMENT AND BUDGET.—The Secretary shall provide a copy of all reports and analyses prepared in connection with implementation of this section to the Director of the Congressional Budget Office and the Director of the Office of Management and Budget.

''(e) DISPOSITION OF PROCEEDS.—All proceeds received as a result of the auctions conducted under to this section shall be returned to the Department of the Treasury after deduction of expenses incurred by the Department of Education in connection with the auctions required pursuant to this section.''.

SEC. 307. EFFECTIVE DATE.

Except as otherwise specified herein, the amendments made by this title shall be effective 30 days after the date of the enactment of this Act.●

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1199. A bill to amend the Internal Revenue Code of 1986 to permit tax-exempt financing of certain transportation facilities; to the Committee on Finance.

THE ALAMEDA TRANSPORTATION CORRIDOR TAX-EXEMPT FINANCING ACT

● Mrs. BOXER. Mr. President, today my colleague, Senator FEINSTEIN, and I are introducing legislation critical to helping the largest port complex in the United States expand its trade with the countries of the Pacific Rim.

Our bill would help provide more efficient cargo transportation by granting tax exempt financing for the Alameda transportation corridor improvement project. These improvements will speed the transport of international cargo between the San Pedro Bay Ports of Los Angeles and Long Beach to the Interstate Highway System and the national railroad network.

Today, more than 25 percent of all U.S. waterborne, international trade depends on the Ports of Los Angeles and Long Beach to reach its market. Approximately 25 percent of the total U.S. Customs duty is generated through the San Pedro Bay Ports, with the accompanying economic impacts from the ports of $12.5 billion in Federal customs revenue and Federal income tax. But this trade reaches the port along more than 90 miles of rail and 200 rail-highway crossings. The Alameda corridor project consolidates three rail lines into a single 20-mile high capacity corridor separated from surface streets. The project also improves truck access and traffic flow paralleling the railroad tracks.

The estimated total cost of the project is $1.8 billion. The ports have already contributed $400 million through the purchase of all rights of way for the corridor. The balance will be available from a mix of public—the State of California and the Los Angeles County Metropolitan Transportation Authority—and private financing. Fees paid by shippers using the corridor will be used to retire the bonds issued to finance construction.

Our bill clarifies the scope of the current tax exemption for docks and wharves by specifically including related transportation facilities to ensure that State and local governments will be permitted to tax-exempt finance those transportation facilities which are reasonably required for the efficient use of publicly owned port infrastructure.

The bill provides that transportation facilities, including trackage and rail facilities, but not rolling stock, shall be treated as ''docks and wharves'' for purposes of the exempt facility bond rules if at least 80 percent of the annual use of such transportation facilities is to be in connection with the transport of cargo to or from docks or wharves. For example, rail facilities for transporting cargo from a port area to the major rail yard some miles away would qualify as an exempt port facility provided that 80 percent of the cargo transported on the facilities is bound for or arriving from the port. It is intended that use, for purposes of the 80-percent test, be computed in any reasonable fashion including, for example, on the basis of ton-miles or car-miles.

The bill provides that for purposes of the governmental ownership requirement for docks and wharves, related transportation facilities that are leased by a Government agency shall be treated as owned by such agency if the lessee makes an irrevocable election not to claim depreciation or an investment credit with respect to such facilities and the lessee has no option

to purchase the facilities other than at fair market value.

This bill is a critical step needed to help provide the most efficient transportation network possible to these vital ports. The Alameda transportation corridor project will create a transportation system of truly national significance, bringing billions of dollars value in cargo and hundreds of millions of dollars of State and local tax benefits throughout the Nation.

This bill provides a significant element in the multifaceted approach to financing this project. The introduction of this legislation today also marks another major step in a tremendous amount of progress on the project in the past 10 months. I would like to take this opportunity to explain the progress to date on this project.

Beginning in 1983, Congress approved specific funding for right-of-way acquisition and improvements to separate the rail lines from the surface streets. Similar projects were also authorized in the 1987 and 1991 highway bills. In June 1990, California voters approved proposition 116 to provide $80 million in State bond financing for the project.

The complex project has involved negotiations with three railroads and 16 Government agencies. Agreements began falling into place late last year. On December 1, 1994, the California Transportation Commission approved the bond sale for $80 million in the proposition 116 funds. On December 29, 1994, the ports and three railroads signed the memorandum of understanding for the joint operating agreement and right-of-way purchase by the ports.

Because much of the previously authorized funding for the project was still not obligated, the Senate Appropriations Committee moved to rescind these funds from the 1983 and 1987 acts. Fortunately, that provision was dropped in the final supplemental appropriations and rescissions bill. In the meantime, at my urging, the local authorities were able to fully obligate those funds. I understand that additional funds authorized in the Intermodal Surface Transportation and Efficiency Act of 1991 [ISTEA] will be obligated by the end of fiscal year 1996.

In June, the Senate accepted my provision in the National Highway System Designation Act to include the route as a high priority corridor, making the project eligible for the Secretary of Transportation's revolving loan fund authorized under ISTEA.

In a colloquy with me in the Senate after passage of the highway bill on June 21, Senator JOHN CHAFEE, the distinguished committee chairman, said:

> The designation of the Alameda Transportation Corridor as a ''high-priority corridor'' reflects the committee's determination that the project merits an ongoing Federal role based upon the long-term potential benefits to interstate and international commerce. The Alameda corridor is, indeed, a project of national significance.

The Senate Appropriations Committee chose not to fund section 1105 in the transportation appropriations bill, H.R. 2002, passed by the Senate on Thursday. However, I am hopeful that the Clinton administration will request funding for the Federal revolving loan fund in its fiscal year 1997 budget request.

Nevertheless, the committee did adopt the plan developed by the Clinton administration to permit State and regional infrastructure banks to develop various innovative financing plans to leverage State and Federal dollars in the private financial sector. And, the committee cited the Alameda corridor in its committee report regarding the proposed State infrastructure banks. According to the report, ''the Committee considers the Alameda transportation corridor in Los Angeles County, CA, as an example of a project that would greatly benefit from the innovative financing option as provided in this bill.''

California will receive $21 million in Federal seed money under the Senate appropriations bill, and the State of California may contribute up to 10 percent of its Federal highway funds.

Funds deposited in these banks will capitalize a revolving loan program and enable the States to obtain a substantial line of credit. The infrastructure banks will assist a variety of projects, including freight rail and highway projects. This assistance would be in the form of financing for construction loans, pooling bond issues, refinancing outstanding debt and other forms of credit enhancement. Most important, enactment of our tax-exempt financing bill will provide the Alameda Transportation Corridor Authority even greater financial advantages to finance the project through the infrastructure bank.

I am pleased that the Senate unanimously accepted my amendment to ensure that California, and other States which already have authorized State infrastructure banks, could participate and not be required to form multistate compacts as provided in the bill. This will help the State move quickly on a financing program.

The combined financial firepower of these two acts—the tax-exempt bonds and the infrastructure bank—should enable this project to be completed without further direct Federal construction funding.

This corridor will provide a vital link, connecting the largest port complex in the United States with key production centers throughout the country. The Ports of Los Angeles and Long Beach currently handle more than 100 million metric tons of cargo valued at $116 billion. Major transportation efficiencies are critical to the port's ability to capture the growing Pacific Rim trade which could increase tonnage to nearly 200 million tons by the year 2020.

The project is expected to generate 10,500 direct construction jobs. Of these, 1,500 are professional and technical jobs and the rest construction trade jobs. In addition, about 3,500 manufacturing, service, and transportation industry jobs will be generated in the Los Angeles region to supply materials and equipment. The construction work will stimulate, directly and indirectly, the creation of about 50,000 jobs in the regional economy.

Mr. President, what will the other States and our Nation as a whole receive in return for this help?

Nationwide, even if only 5 percent of the full projected impact of building the Alameda corridor is realized, by the end of the next decade the United States will gain 70,000 new jobs and $2.5 billion in additional Federal revenue. The actual impact could be as much as 20 times greater.

I would like to insert into the RECORD information that was provided to the ports in a study by BST Associates of Seattle, WA. This 1994 data shows the strong U.S. trade growth through the ports and a State-by-State break down on exports, imports, and tax revenue. The corridor project will accelerate this growth.

Mr. President, I believe this project is the premier trade-related public works project in the United States. Benefits to our national economy through more efficient shipping—high volume and fast—is key to tapping the emerging markets in the Pacific Rim.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX-EXEMPT FINANCING OF CERTAIN TRANSPORTATION FACILITIES.

(a) IN GENERAL.—Subsection (c) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bonds) is amended—

(1) by redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) the following new paragraph:

''(2) RELATED TRANSPORTATION FACILITIES.—

''(A) IN GENERAL.—Transportation facilities (including trackage and related rail facilities, but not rolling stock) shall be treated as facilities described in paragraph (2) of subsection (a) if at least 80 percent of the use of the facilities (determined on an annual basis) is to be in connection with the transport of cargo to or from a facility described in such paragraph (without regard to this paragraph).

''(B) GOVERNMENTAL OWNERSHIP REQUIREMENT.—In the case of transportation facilities described in subparagraph (A), subsection (b)(1) shall apply without regard to subparagraph (B)(ii) thereof.''

(b) CHANGE IN USE.—Section 150(b) of the Internal Revenue Code of 1986 (relating to change in use of facilities financed with tax-exempt private activity bonds) is amended by adding at the end the following new paragraph:

''(7) CERTAIN TRANSPORTATION FACILITIES.—In the case of any transportation facility—

''(A) with respect to which financing is provided from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt bond described in paragraph (2) of section 142(a) by reason of section 142(c)(2), and

''(B) with respect to which the requirements of section 142(c)(2) are not met,

no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the 1st day of the taxable year in which such facility fails to meet such requirements and ending on the date such facility meets such requirements.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

NATIONAL ECONOMIC IMPACTS

Several trends underscore the efficiency and effectiveness of transportation facilities provided by the San Pedro Bay ports for firms located throughout the US. Most notably, the San Pedro ports have a stable or growing market share of dollar value and tonnage of both waterborne imports and exports. In addition, customs duty and shipping charges as measured by the Department of Commerce are also substantial and increasing through the Ports. San Pedro Bay ports are the primary window on the Pacific Rim for most U.S. importers and exporters. The Alameda Corridor project is a very important means to assure that the San Pedro Bay ports maintain the efficiencies so critical to US importers and exporters.

The following section summarizes several key findings of BST Associates evaluation of econmic impacts:

Customs revenue assessed for cargo imported through the Ports of Los Angeles and Long Beach was estimated to be $4.9 billion in 1994.

State and local taxes (consisting of sales taxes, individual income taxes, corporate income taxes and other local taxes) were estimated to be $5.8 billion in 1994.

Federal income taxes were estimated to be $7.6 billion in 1994.

Direct employment was estimated to be 611,200 full time equivalent jobs in 1994.

Total employment was estimated to be 1.1 million full time equivalent jobs in 1994.

TABLE 1.—SUMMARY OF US IMPACTS

Category	Imports	Exports	Total
Associated Economic Impacts			
In billions of dollars:			
Customs Revenue	$4.9	.....	$4.9
State and Local Taxes	4.3	$1.5	5.8
Federal Income Tax	5.2	2.4	7.6
In thousands:			
Direct Employment	473.9	137.4	611.2
Total Employment	744.0	326.9	1,070.9

Source: BST Associates

VALUE OF INTERNATIONAL WATERBORNE CARGO IMPORTS AND EXPORTS

The value of international waterborne cargo (i.e., imports and exports) moving through the Ports of Los Angeles and Long Beach accounts for more than 27% of the total value of international US waterborne trade. The value through the San Pedro Bay ports has grown from $86 billion in 1988 to $144 billion in 1994, faster than any other port region in the United States. San Pedro Bay ports have increased their market share of both exports and imports. (Graphs have been omitted.)

International waterborne cargo tonnage through the Ports of Los Angeles and Long Beach has grown consistently from 44 million tons in 1988 to 58.5 million tons in 1994. The San Pedro Bay ports jointly account for 5.7% of total international waterborne commerce, up from 4.8% in 1988. However, most of the cargo moving through these ports is very high valued and requires quick transit.

CUSTOMS DUTY ON INTERNATIONAL WATERBORNE CARGO IMPORTS ONLY

The customs duty imposed on cargo moving through the San Pedro Bay ports has grown from 3.0 billion in 1989 to $4.1 billion in 1994. Customs duty through these ports has consistently averaged between 24% and 25% of the total customs duty collected from all sources (i.e., ports, airports and overland crossings).

PORTS OF LOS ANGELES AND LONG BEACH—1994 DATA

Impacts at the State level:	Metric tons	Value of cargo	State and local taxes	Direct employment	Total employment
Exports—Alabama	90,642	$121,990,256	$5,365,863	792	1,874
Imports—Alabama	47,579	352,584,384	21,058,102	3,428	5,013
Total	138,221	474,574,640	26,423,966	4,220	6,887
Exports—Alaska	457	709,470	23,176	30	47
Imports—Alaska	36	134,525	4,394	1	1
Total	492	843,995	27,570	31	48
Exports—Arizona	111,180	361,160,859	23,288,013	2,421	5,261
Imports—Arizona	31,027	110,050,803	10,485,200	1,080	1,657
Total	142,207	471,211,662	33,773,214	3,502	6,918
Exports—Arkansas	21,667	54,887,914	2,618,812	344	733
Imports—Arkansas	58,146	453,086,382	33,604,058	4,325	6,437
Total	79,813	507,974,296	36,222,870	4,669	7,169
Exports—California	10,198,471	9,943,153,117	629,073,468	60,119	143,032
Imports—California	5,478,501	26,754,481,992	2,224,608,423	244,275	395,702
Total	15,676,972	36,697,635,109	2,853,681,891	304,395	538,733
Exports—Colorado	608,691	243,432,078	17,665,622	1,464	3,395
Imports—Colorado	21,117	111,814,045	9,532,818	1,111	1,737
Total	629,808	355,246,123	27,198,441	2,575	5,132
Exports—Connecticut	1,292,205	237,140,467	16,123,180	2,063	4,802
Imports—Connecticut	131,023	272,685,998	24,560,555	2,367	3,548
Total	1,423,229	509,826,464	40,683,735	4,430	8,350
Exports—Delaware	199,896	365,012,063	16,677,766	1,888	3,853
Imports—Delaware	1,334	3,811,761	174,163	35	50
Total	201,230	368,823,824	16,851,929	1,923	3,903
Exports—District of Columbia	7,578	176,864,910	15,190,043	1,139	1,321
Imports—District of Columbia	1,055	12,705,892	1,244,085	166	189
Total	8,633	189,570,802	16,434,127	1,305	1,509
Exports—Florida	109,692	234,852,824	11,497,925	1,722	3,289
Imports—Florida	133,410	706,667,671	58,457,670	6,560	9,885
Total	243,101	941,520,495	69,955,594	8,282	13,173
Exports—Georgia	144,062	300,047,132	18,615,524	1,818	4,306
Imports—Georgia	106,622	700,828,760	57,130,159	7,147	11,104
Total	250,684	1,000,875,892	75,745,683	8,965	15,411
Exports—Hawaii	6,856	15,145,934	869,589	82	120
Imports—Hawaii	8,793	16,122,295	1,648,618	158	233

PORTS OF LOS ANGELES AND LONG BEACH—1994 DATA—Continued

Impacts at the State level:	Metric tons	Value of cargo	State and local taxes	Direct employment	Total employment
Total	15,649	31,268,229	2,518,206	240	353
Exports—Idaho	27,564	19,333,700	1,136,029	117	212
Imports—Idaho	1,621	5,905,119	485,584	56	83
Total	29,185	25,238,818	1,621,613	173	295
Exports—Illinois	435,194	1,549,062,807	99,925,394	9,152	24,639
Imports—Illinois	432,072	2,713,615,940	216,999,726	26,771	42,489
Total	867,266	4,262,678,747	316,925,120	35,924	67,127
Exports—Indiana	47,694	206,186,568	11,373,045	1,216	3,175
Imports—Indiana	25,370	335,070,145	26,741,278	3,496	5,227
Total	73,064	541,256,712	38,114,323	4,713	8,402
Exports—Iowa	21,655	66,031,325	4,316,996	318	765
Imports—Iowa	2,725	25,000,847	2,081,046	283	413
Total	24,379	91,032,172	6,398,041	601	1,178
Exports—Kansas	2,218,525	301,385,563	18,549,679	1,574	3,810
Imports—Kansas	21,480	90,137,909	7,223,832	953	1,438
Total	2,240,005	391,523,472	25,773,511	2,528	5,248
Exports—Kentucky	359,121	355,918,293	18,090,971	1,648	4,003
Imports—Kentucky	35,820	223,432,312	18,846,490	2,310	3,416
Total	394,940	579,350,605	$33,937,461	3,957	7,419
Exports—Louisiana	36,883	90,178,038	3,863,670	266	548
Imports—Louisiana	36,223	74,475,334	4,222,520	774	1,123
Total	73,106	164,653,372	8,086,206	1,040	1,671
Exports—Maine	5,825	39,595,977	2,795,832	310	561
Imports—Maine	4,762	36,197,818	3,440,277	317	465
Total	10,586	75,793,795	6,236,109	627	1,025
Exports—Maryland	27,941	62,849,303	4,645,443	391	741
Imports—Maryland	15,338	94,358,770	8,336,692	919	1,409
Total	43,279	157,208,072	12,982,135	1,310	2,150
Exports—Massachusetts	80,178	145,095,028	10,754,008	1,062	2,474
Imports—Massachusetts	177,357	1,224,863,024	106,406,301	12,066	18,275
Total	257,535	1,369,958,052	117,160,309	13,127	20,749
Exports—Michigan	114,360	546,191,038	39,448,648	3,101	7,309
Imports—Michigan	121,333	733,146,533	67,131,295	7,245	10,447
Total	235,693	1,279,337,571	106,579,943	10,347	17,756
Exports—Minnesota	67,255	225,633,399	15,786,892	1,522	3,549
Imports—Minnesota	23,020	108,585,929	9,957,547	1,134	1,727
Total	90,275	334,219,328	25,744,439	2,656	5,276
Exports—Mississippi	9,203	22,226,477	857,720	155	377
Imports—Mississippi	6,113	23,030,734	1,566,965	235	342
Total	15,316	45,257,212	2,424,685	390	719
Exports—Missouri	120,231	382,977,778	20,482,418	2,104	4,650
Imports—Missouri	70,051	590,502,820	42,412,865	6,097	9,412
Total	190,282	973,480,598	62,895,283	8,201	14,063
Exports—Montana	127	244,269	17,105	1	2
Imports—Montana	110	399,304	27,962	4	6
Total	236	643,573	45,067	5	8
Exports—Nebraska	66,108	231,318,838	14,453,032	1,060	2,056
Imports—Nebraska	18,750	143,570,567	11,800,579	1,647	2,394
Total	84,859	374,897,406	26,253,611	2,707	4,450
Exports—Nevada	8,774	17,594,765	504,653	145	307
Imports—Nevada	17,658	19,047,749	1,095,112	164	233
Total	26,431	36,642,514	1,599,765	309	540
Exports—New Hampshire	1,306	2,748,292	187,321	22	45
Imports—New Hampshire	1,211	7,791,755	531,078	68	104
Total	2,517	10,540,046	718,399	90	149
Exports—New Jersey	429,166	985,210,107	70,473,064	6,588	16,848
Imports—New Jersey	540,842	4,464,960,252	405,436,251	36,957	57,749
Total	970,007	5,450,170,359	475,909,315	43,545	74,597
Exports—New Mexico	3,436	5,847,507	241,069	17	36
Imports—New Mexico	1,456	6,613,086	514,287	66	97
Total	4,893	12,460,594	755,356	83	133
Exports—New York	1,440,379	1,176,164,909	128,253,726	7,639	15,200
Imports—New York	579,591	4,210,171,022	512,828,302	38,545	54,372
Total	2,019,971	5,386,335,930	641,082,028	46,184	69,571

PORTS OF LOS ANGELES AND LONG BEACH—1994 DATA—Continued—Continued

Impacts at the State level:	Metric tons	Value of cargo	State and local taxes	Direct employment	Total employment
Exports—North Carolina	59,713	242,144,777	12,958,378	1,158	2,522
Imports—North Carolina	40,647	575,457,083	39,576,485	5,895	8,749
Total	100,359	817,601,860	52,534,863	7,053	11,271
Exports—North Dakota	2,389	14,539,883	621,754	67	132
Imports—North Dakota	8	32,666	2,086	0	1
Total	2,397	14,572,550	632,840	67	132
Exports—Ohio	170,227	566,154,786	36,085,008	3,207	8,202
Imports—Ohio	155,833	949,215,187	76,407,076	10,063	15,187
Total	326,060	1,515,369,972	112,492,004	13,270	23,389
Exports—Oklahoma	18,425	$67,219,915	$3,383,178	345	822
Imports—Oklahoma	7,900	45,936,951	3,101,939	459	667
Total	26,324	113,156,867	6,485,117	802	1,489
Exports—Oregon	89,236	58,768,286	5,563,417	337	698
Imports—Oregon	39,088	140,024,718	13,255,720	1,313	2,012
Total	128,325	198,793,004	18,819,137	1,650	2,710
Exports—Pennsylvania	289,096	382,635,058	25,309,779	2,614	9.075
Imports—Pennsylvania	74,125	440,668,357	37,190,206	4,325	6,629
Total	363,222	823,303,415	62,499,985	6,938	15,704
Exports—Rhode Island	2,490	7,897,301	547,133	77	166
Imports—Rhode Island	14,689	50,992,237	4,470,846	509	759
Total	17,179	58,889,538	5,017,979	587	925
Exports—South Carolina	26,582	109,283,212	5,652,346	770	1,693
Imports—South Carolina	27,253	196,515,720	14,604,262	2,096	3,049
Total	53,835	305,798,933	20,256,609	2,866	4,742
Exports—South Dakota	190	1,994,777	87,463	12	21
Imports—South Dakota	107	682,444	44,883	8	11
Total	297	2,677,220	132,346	19	33
Exports—Tennessee	397,132	566,254,146	19,163,173	2,998	6,672
Imports—Tennessee	212,251	866,130,367	51,953,578	8,498	12,953
Total	609,383	1,432,392,514	71,116,750	11,496	19,624
Exports—Texas	1,083,095	1,764,979,567	74,409,774	7,616	20,477
Imports—Texas	392,621	2,604,377,397	169,362,662	24,520	39,070
Total	1,475,716	4,369,356,964	243,772,436	32,136	59,547
Exports—Utah	1,032,075	D982	2,244		
Imports—Utah	2,646	9,205,594	821,249	94	143
Total	1,034,721	176,774,341	11,413,940	1,076	2,387
Exports—Vermont	178	793,201	59,011	6	11
Imports—Vermont	422	2,837,081	250,423	28	40
Total	600	3,630,282	309,434	33	51
Exports—Virginia	169,253	344,514,894	22,324,910	2,207	4,828
Imports—Virginia	46,494	235,339,342	17,839,428	2,325	3,526
Total	215,747	579,854,237	40,164,338	4,532	8,354
Exports—Washington	397,406	228,715,614	7,193,106	1,177	2,472
Imports—Washington	48,229	168,993,059	13,029,027	1,575	2,421
Total	445,635	397,708,673	20,222,133	2,752	4,893
Exports—West Virginia	7,148	29,241,380	1,481,602	173	319
Imports—West Virginia	1,849	25,196,135	1,980,315	252	338
Total	8,997	54,437,515	3,461,910	426	657
Exports—Wisconsin	79,142	219,630,630	16,890,913	1,350	3,231
Imports—Wisconsin	24,924	106,837,813	10,457,071	1,128	1,658
Total	104,066	326,468,443	27,347,985	2,479	4,890
Exports—Wyoming	25	89,896	3,116	0	0
Imports—Wyoming	1	7,094	348	0	0
Total	26	96,990	3,464	0	1
Exports—Total	22,136,121	23,258,617,076	1,465,492,457	137,386	326,921
Imports—Total	9,240,632	51,044,316,721	4,341,941,847	473,850	743,989

• Mrs. FEINSTEIN. Mr. President, today, Senator BOXER and I are introducing legislation that will allow for the Alameda Corridor Transportation Authority to issue tax-free bonds to help construct the Alameda corridor, probably the most important transportation project currently under consideration anywhere in the United States.

The Alameda corridor is a $1.8 billion project that will allow the San Pedro Bay ports—Los Angeles and Long Beach—to expand and grow well into the 21st century. The project, in the years ahead, will require a Federal authorization of $700 million, the necessary Federal commitment. The ports have committed well over $400 million to purchase railroad rights-of-way.

But, initial construction will be funded by the issuance of bonds, and that is why this bill is so vital. Tax-free bonds can currently be issued for construction of harbor and port facilities, but under current law, the corridor would not apply since the major distribution

center is 20 miles inland from the port. This legislation would extend the ability to issue tax-free bonds for transportation facilities, which would include trackage and rail facilities, if 80 percent of the cargo transported on the tracks is to and from the port, which is otherwise eligible for the issuance of tax-free bonds. Additionally, the facility must be publicly owned. This bill will reduce the cost of the corridor's construction by approximately $200 million.

Currently, to handle the cargo going in and out of the ports, according to the Alameda Corridor Transportation Authority, the San Pedro Bay ports now generate approximately 20,000 truck trips and 29 train movements per day. By the year 2020, truck traffic is projected to increase to 49,000 daily trips and 97 daily train movements.

Today, three railroads on three separate tracks serve the San Pedro Bay ports, with 90 miles of track and over 200 grade crossings between the ports and inland cargo dispersal sites. Santa Fe's railroad alone has 92 crossings within a 20 mile span. Trucks carrying goods from the ports to dispersal sites farther inland face numerous stops and traffic.

With the projected increase in trade and cargo transport needs, the current transportation system will simply be inadequate to handle future demands.

The Alameda corridor project would consolidate the existing railways into a single corridor that would be depressed, and all crossing streets would bridge over the top. This would avoid the terrible delays as a result of the grade crossings. The corridor would also accommodate truck traffic. Make no mistake, the Alameda corridor is a project of national significance.

The benefits of constructing the corridor will go far beyond the Los Angeles region, and well beyond the California borders. Every State in this Nation is impacted by the trade along the Pacific rim, and thus by the activities of Pacific ports. Trucks and trains must move the goods out of the ports. Workers must unload the goods from ships, put them on trains or trucks, and then once they arrive at a destination, more workers must unload these goods, before they are delivered to their final stop. Trade creates jobs in every sector of the economy.

Put simply, trade means jobs.

All of the Nation's coastal States understand the importance of trade, seagoing trade in particular. In 1992, the last year for which statistics are available, this Nation exported $158.4 billion worth of goods through its seaports, and imported $293.1 billion of goods through the same ports of entry.

The San Pedro Bay ports are the busiest containerport facility in the world. Combined, $109 billion worth of cargo moved through the Los Angeles and Long Beach Ports. Trade on the Pacific rim is only expected to grow.

We must be able to support the projected growth in international commerce, and the development of the Alameda corridor will help us insure that we do so.●

By Ms. SNOWE (for herself and Ms. MIKULSKI):

S. 1200. A bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus; to the Committee on Foreign Relations.

THE FREEDOM AND HUMAN RIGHTS FOR THE ENCLAVED PEOPLE OF CYPRUS ACT

● Ms. SNOWE. Mr. President, today I am introducing a bill to address the severe human rights violations that are occurring today against a small, remnant minority in an occupied region of their own country. I am pleased to be joined in introducing this bill by my distinguished colleague from Maryland, Senator MIKULSKI.

The human rights abuses addressed in this bill are little known outside the country in which they are occurring. The country is the island nation of Cyprus, which for 21 years has seen much of its territory under the illegal military occupation of neighboring Turkey.

Mr. President, two decades ago, Turkey's brutal invasion drove more than 200,000 Cypriots from their homes and reduced them to the status of refugees in their own land. More than 2,000 people are still missing, including 5 American citizens. The Turkish Army seized 40 percent of the land of Cyprus, representing 70 percent of the island's economic wealth. Today, Turkey continues to maintain 35,000 troops on the island, which forms the bedrock of the continuing political impasse.

During Turkey's invasion of northern Cyprus in 1974, the areas now under Turkish control suffered from a near-complete ethnic cleansing of the over 200,000 Greek-Cypriot majority population. There remains in northern Cyprus, however, a remnant population of 497 enclaved Greek-Cypriots. These Cypriot citizens are often simply referred to as the enclaved of Cyprus, because during 1974 they mostly resided in remote enclaves and thus were not able to flee the fighting and were not immediately expelled.

According to reports, this small population suffers from a series of severe human rights restrictions. These include:

Restrictions on the freedom to worship, including restrictions on times and places for such worship;

Restrictions on communication with individuals living outside of the area in which the enclaved reside, including a requirement that representative of the controlling power be present during any such communication;

Prohibition on the possession of telephones in homes;

A requirement that an enclaved individual receive permission from the controlling power before leaving the enclaved area;

Censorship of mail sent to and out from the enclaved area;

A requirement that enclaved males aged 18 to 50 report once a week to those in control;

Education restrictions such as a lack of educational opportunities beyond the elementary level, travel restrictions on those who must leave the region for middle and high school, and a prohibition on returning to those who leave for higher education;

Violation of property rights, including confiscation of property without compensation; and

Inadequate protection from physical abuse, including beatings, rape and murder.

Mr. President, the enclaved in northern Cyprus are forced to live under the kinds of extreme restrictions that were once the hallmarks of totalitarian states. Clearly, these severe human rights abuses are intended to achieve the complete ethnic cleansing of northern Cyprus through means just short of physical expulsion.

This bill does more than just raise awareness of the shocking human rights violations occurring today in Turkish-occupied northern Cyprus. It also calls on the President to use the influence of the United States to work to bring these abuses to an end. Among the means to be used are bringing the issue before the U.N. Human Rights Commission and the U.N. High Commissioner for Refugees, addressing the issue in the State Department's annual human rights report, and creating a humanitarian assistance program out of existing foreign assistance funds to directly assist the enclaved in northern Cyprus.

Mr. President, the measures called for in this bill are, frankly, the least we can do. While we work to address the human rights abuses against the enclaved, we must also be working separately to bring the long-standing dispute on Cyprus to an end in a manner that will entail the total withdrawal of Turkish troops—and possibly even the entire demilitarization of the island, as has been proposed by Cypriot President Glafcos Clerides—and a restoration of Cyprus' sovereignty over its entire territory with the full respect of the rights of all Cypriots.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Freedom and Human Rights for the Enclaved People of Cyprus Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The respect for fundamental freedom and human rights, especially in those countries that are allies of the United States, is a cornerstone of United States foreign policy.

(2) Among the purposes of United States foreign assistance is to promote human rights.

(3) United States foreign assistance should be utilized to end the imposition of restrictions on the freedoms and human rights of the enclaved people of Cyprus.

(4) Among the restrictions of freedom and human rights to which the enclaved people of Cyprus are subjected are the following:

(A) Restrictions on the freedom to worship, including restrictions on times and places for such worship.

(B) Restrictions on communication with individuals living outside the area of the enclaved, including a requirement that an individual from among those in control be present during any such communication.

(C) Prohibition on the possession of telephones in homes.

(D) A requirement that an enclaved individual receive permission from an individual from among those in control before leaving the enclaved area.

(E) Censorship of mail sent to and from the enclaved area.

(F) A requirement that enclaved males aged 18 to 50 report once a week to those in control.

(G) Restrictions on the provision of educational services, including—

(i) lack of replacement elementary school teachers and lack of educational facilities beyond elementary school;

(ii) a requirement that an enclaved individual who chooses to leave home for education beyond elementary school may return home not more than three times a year; and

(iii) a requirement that enclaved males 16 years of age or older and enclaved females 18 years of age or older who choose to leave home for education beyond elementary school may not return home at all.

(H) Violation of property rights, including confiscation of property without compensation.

(I) Lack of compensation for work performed.

(J) Harassment, beating, rape, and murder without adequate protection or investigation.

SEC. 3. UNITED STATES EFFORTS TO ALLEVIATE AND ELIMINATE THE RESTRICTIONS ON THE ENCLAVED PEOPLE IN CYPRUS.

(a) IN GENERAL.—The President shall take steps—

(1) to inform the United Nations, foreign governments, and the appropriate departments and agencies of the United States Government of the restrictions on the enclaved people of Cyprus,

(2) to enlist the United Nations and foreign governments in efforts to end restrictions on the freedom and human rights of the enclaved people of Cyprus, and

(3) to establish United States Government programs of assistance to the enclaved people of Cyprus, consistent with subsection (b), and to undertake efforts for the alleviation and elimination of restrictions on the enclaved.

(b) ESTABLISHMENT OF ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—The President—

(A) shall, to the extent practicable, use funds allocated for a fiscal year to the government or ethnic community participating directly or indirectly in imposition of restrictions on the freedom and human rights of the enclaved people of Cyprus to assist such people, or

(B) in the absence of such funds, shall establish a foreign assistance program for the enclaved people of Cyprus.

(2) USE OF FUNDS.—Assistance for the enclaved people of Cyprus under paragraph (1) shall include—

(A) programs to eliminate specific aspects of the restrictions of freedom and human rights on the enclaved people of Cyprus; and

(B) programs to return ancestral homes and lands to the enclaved people, including United States citizens, who have been forcibly expelled, or those individuals who have fled the enclaved areas or other areas of Cyprus in fear of severe restrictions of freedom, human rights abuses, or violation of property rights.

(c) NOTIFICATION OF OPPOSITION TO RESTRICTIONS OF FREEDOM AND HUMAN RIGHTS ABUSES.—The President—

(1) shall notify in writing each fiscal year the head of government of any foreign country that is participating, directly or indirectly, in the restrictions on freedom and human rights of the enclaved people of Cyprus of the opposition by the United States to that government's participation in such restrictions; and

(2) shall urge the head of such government to cease participation in such restrictions and to work to eliminate such restrictions.

(d) MONITORING AND REPORTING REQUIREMENTS.—The Secretary of State shall include a report on the enclaved people of Cyprus as part of the annual Department of State's Country Reports on Human Rights Practices.

SEC. 4. UNITED NATIONS EFFORTS TO RESOLVE THE RESTRICTIONS ON THE ENCLAVED PEOPLE IN CYPRUS.

The President shall direct the United States representative to the United Nations—

(1) to urge the United Nations High Commissioner for Refugees to address and solve the plight of those enclaved on Cyprus; and

(2) to call upon the United Nations Human Rights Commissioner to investigate the plight of the enclaved on Cyprus and to implement appropriate and effective corrective action.●

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 254

At the request of Mr. LOTT, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 491

At the request of Mr. BREAUX, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 491, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the Medicare Program for individuals with diabetes.

S. 498

At the request of Mr. HELMS, his name was added as a cosponsor of S. 498, a bill to amend title XVI of the Social Security Act to deny SSI benefits for individuals whose disability is based on alcoholism or drug addiction, and for other purposes.

S. 508

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 508, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 607

At the request of Mr. WARNER, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 715

At the request of Mr. D'AMATO, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 715, a bill to provide for portability of health insurance, guaranteed renewability, high risk pools, medical care savings accounts, and for other purposes.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 832

At the request of Mr. GRAHAM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 832, a bill to require the Prospective Payment Assessment Commission to develop separate applicable percentage increases to ensure that Medicare beneficiaries who receive services from Medicare dependent hospitals receive the same quality of care and access to services as Medicare beneficiaries in other hospitals, and for other purposes.

S. 844

At the request of Mr. ASHCROFT, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 844, a bill to replace the Medicaid Program with a block grant to the States, and for other purposes.

S. 885

At the request of Mr. SIMPSON, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 885, a bill to establish United States